NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)

Respondent

FILED
Sep 07, 2023

ON BEHALF OF RESPONDENT: Colleen Ward, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Chicago, IL

Before: Owen, Appellate Immigration Judge

OWEN, Appellate Immigration Judge

The respondent, a native and citizen of Burma, has timely filed an appeal of an Immigration Judge's May 5, 2023, decision that denied his application for deferral of removal under the regulations implementing the Convention Against Torture ("CAT").[1] The Department of Homeland Security ("DHS") has not responded to the appeal. The appeal will be dismissed.

We review for clear error the findings of fact, including the determination of credibility, made by the Immigration Judge. 8 C.F.R. § 1003.1(d)(3)(i) (2023). We review de novo all other issues, including issues of law, judgment, or discretion. 8 C.F.R. § 1003.1(d)(3)(ii).

We need not address the Immigration Judge's adverse credibility finding because we affirm the Immigration Judge's alternative merits denial of the respondent's application for deferral of removal under the CAT (IJ at 3-7; Respondent's Br. at 9-23). We agree with the Immigration Judge that the respondent did not establish that there is a substantial risk he will be tortured upon return to Burma. Notably, the Immigration Judge did not clearly err in forecasting the likelihood of the respondent's future mistreatment upon return to Burma, even considering general country conditions, and his family's alleged prior experiences in Burma. *See* 8 C.F.R. § 1003.1 (d)(3)(i); *Boyanivskyy v. Gonzales*, 450 F.3d 286,292 n.3 (7th Cir. 2006) (explaining burden of proof for relief under the Torture Convention); *Rosiles-Camarena v. Holder*, 735 F.3d 534, 538-39 (7th Cir. 2013); *Matter of Z-Z-O-*, 26 I&N Dec. 586, 590 (BIA 2015).

The Immigration Judge found, without clear error, that the respondent, who has not resided in Burma since 1993, was not subjected to torture prior to his departure from that country (IJ at 5). *See* 8 C.F.R. § 1208.16(c)(3)(i) (stating that in assessing whether it is more likely than not that an

[1] The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994). 8 C.F.R. §§ 1208.16(c)-1208.18.

applicant would be tortured in the country of removal, evidence of past torture is considered), 8 C.F.R. § 1208.17(a). The respondent's mother died in Burma at the age of 84 from natural causes (IJ at 6). Furthermore, as discussed by the Immigration Judge, the country reports do not support a finding that it is likely that the respondent will face torture in Burma as a Rohingya Muslim (IJ at 5-7). Evidence of the general possibility of torture does not meet an applicant's burden of establishing that it is more likely than not that he will be targeted for such treatment. *See Matter of S-V-*, 22 I&N Dec. 1306, 1313 (BIA 2000) ("Specific grounds must exist that indicate the individual would be personally at risk"); *Matter of J-F-F-*, 23 I&N Dec. 912 (A.G. 2006) (burden of proof under the CAT cannot be met by stringing together a series of speculative suppositions); *Selimi v. Ashcroft*, 360 F.3d 736, 740-41 (7th Cir. 2004) (holding that evidence of "political turmoil, civil strife, and many human rights abuses" without evidence that applicant was personally targeted was an insufficient basis for granting asylum, which requires a lower burden of proof than CAT protection); *see also, e.g., Almaghzar v. Gonzales*, 457 F.3d 915, 922-23 (9th Cir. 2006) (although the country reports confirmed that torture took place in the country, they did not compel the conclusion that the applicant would be tortured if returned).

In arriving at her conclusion, the Immigration Judge clearly weighed and considered all the evidence, including that provided by the respondent (Respondent's Br. at 16-23). The Immigration Judge was not required to adopt the respondent's inferences from his evidence; even credible testimony may not be persuasive or sufficient considering the record as a whole. The Immigration Judge is entitled to make reasonable inferences from direct and circumstantial evidence of the record, such as she did here. *Matter of D-R-*, 25 I&N Dec. 445, 453-54 (BIA 2011) (explaining that an Immigration Judge may make reasonable inferences from direct and circumstantial evidence in the record and is not required to accept a respondent's account where the record supports other plausible views of the evidence).

Finally, in assessing whether it is more likely than not that an applicant would be tortured in the proposed country of removal, all evidence relevant to the possibility of future torture is considered, including, but not limited to, evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured. *See* 8 C.F.R. § 1208.16(c)(3)(ii). We agree with the Immigration Judge's determination that the respondent did not establish that he could not internally relocate to avoid being harmed (IJ at 7; Respondent's Br. at 23-25). The respondent's mother and sister lived safely in Burma before they passed, and the respondent did not show that he could not live one of those areas upon his repatriation (IJ at 7).

Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)

Respondent

FILED
Aug 01, 2023

ON BEHALF OF RESPONDENT: Christopher J. Roth, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Omaha, NE

Before: Pepper, Temporary Appellate Immigration Judge[1]

PEPPER, Temporary Appellate Immigration Judge

The respondent, a citizen of Burma, appeals from the Immigration Judge's March 30, 2023, decision denying his application for cancellation of removal under section 240A(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229b(a), asylum and withholding of removal under sections 208(b)(1)(A) and 241(b)(3)(A) of the INA, 8 U.S.C. §§ 1158(b)(1)(A), 1231(b)(3)(A), and protection under the regulations implementing the Convention Against Torture ("CAT").[2] The appeal will be dismissed.

We review for clear error the findings of fact, including the determination of credibility, made by the Immigration Judge. 8 C.F.R. § 1003.1(d)(3)(i). We review de novo questions of law, discretion, and judgment, and all other issues in appeals from the Immigration Judge's decision. 8 C.F.R. § 1003.1(d)(3)(ii).

Starting with the respondent's application for cancellation of removal, the Board adopts and affirms the entirety of the Immigration Judge's decision. *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that adoption or affirmance of a decision, in whole or in part, is "simply a statement that the Board's conclusions upon review of the record coincide with those which the [adjudicator] articulated in his or her decision"). The Immigration Judge carefully considered and weighed all discretionary factors arising from the testimonial and documentary evidence (IJ at 4-6). Contrary to the respondent's assertion on appeal, the Immigration Judge specifically considered the hardship to the respondent's family and to the respondent himself and found those

[1] Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. *See generally* 8 C.F.R. § 1003.1(a)(1), (4).

[2] The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994). 8 C.F.R. §§ 1208.16(c)-1208.18.

factors weighed in the respondent's favor (IJ at 4-5; Tr. at 81-82, 93, 97-98; Exh. 7; Exh. 10; Respondent's Br. at 5). Similarly, the Immigration Judge explicitly noted the respondent presented a drug treatment plan for outside of prison, but nevertheless found the respondent's rehabilitation to be to be in question (IJ at 5-6; Respondent's Br. at 5). In reaching this conclusion, the Immigration Judge properly relied on evidence that the respondent has continued to engage in criminal activity despite having his immigration proceedings previously terminated, the significant family support available to him, and the multiple rehabilitation programs or opportunities offered to him while either incarcerated or on probation (IJ at 5-6; Tr. at 111-116, 161-162). Based on the totality of the evidence, the Immigration Judge properly found the respondent did not demonstrate he is deserving of a favorable exercise of discretion for cancellation of removal.

The Immigration Judge also properly found the respondent has been convicted of a particularly serious crime, thereby barring his eligibility for asylum and withholding of removal (IJ at 6-8). The respondent was charged with sexual assault on a child in the third degree under Neb. Rev. Stat. § 28-320.02(1), (3), and later convicted of child abuse by neglect under Neb. Rev. Stat. § 28-707(1) (Exh. 19). The respondent argues the Immigration Judge overly relied on the United States Court of Appeals for the Eighth Circuit's holding in *Al-Masaudi v. Garland*, 44 F.4th 1079, 1084 (8th Cir. 2022), to find his offense was particularly serious and asserts that the facts of his case are distinguishable (Respondent's Br. at 5-6). The Immigration Judge however properly conducted an individualized analysis under the governing standards and found without error that the respondent's offense was a particularly serious crime (IJ at 6-8). *See Jama v. Wilkinson*, 990 F.3d 1109, 1115 (8th Cir. 2021); *Matter of N-A-M-*, 24 I&N Dec. 336, 337-38 (BIA 2007).

The Immigration Judge preliminarily assessed whether the elements of section 28-707(1) bring it within the ambit of a particularly serious crime and correctly found that, as did the Eighth Circuit in *Al-Masaudi*, they did in fact fall into that category. 44 F.4th at 1084. The Immigration Judge then went on to consider whether the individual circumstances of the respondent's offense established that it was particularly serious (IJ at 8). *Matter of Frentescu*, 18 I&N Dec. 244, 247 (BIA 1982). In doing so, the Immigration Judge permissibly found that the conviction records were more persuasive than the respondent's testimony regarding the underlying factual circumstances of the offense given the respondent was under the influence of drugs and alcohol at the time (*Compare* Exh. 19, *with* Tr. at 105-106, 131-136; Respondent's Br. at 6). *See Matter of D-R-*, 25 I&N Dec. 445, 454-55 (BIA 2011) (explaining that an adjudicator may make reasonable inferences from direct and circumstantial evidence in the record as a whole and is not required to accept [an applicant's] account where other plausible views of the evidence are supported by the record).[3] The Immigration Judge found without clear error that the victim was a 13-year-old girl whom the respondent knew, there was a significant age gap between the respondent and the victim, the incident occurred in the child's bedroom, and the respondent asked

[3] The respondent does not claim that his substance abuse mitigates the seriousness of his offense, nor is the Board persuaded that such is the case. *See Shazi v. Wilkinson*, 988 F.3d 441, 450 (8th Cir. 2021) (holding "'all reliable information' pertaining to the nature of the crime, including evidence of mental health conditions, may be considered in a particularly serious crime analysis") (quoting *Marambo v. Barr*, 932 F.3d 650, 655 (8th Cir. 2019).

for a hug from the victim which led to the respondent grabbing the victim's breasts (IJ at 8; Exh. 19). Although the respondent correctly points out that the facts of his case differ from those in *Al-Masaudi*, he has nevertheless not persuasively shown how these facts or others mitigate the seriousness of his offense (Respondent's Br. at 6). As such, the Immigration Judge properly found the respondent's conviction for child abuse precluded his eligibility for asylum and withholding of removal.

Based on the foregoing, the Board declines to address the Immigration Judge's alternative basis for denying asylum and withholding of removal under the INA (IJ at 8-12; Respondent's Br. at 8). *See Matter of J-G-*, 26 I&N Dec. 161, 170 (BIA 2013) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (discussing the general rule that courts and agencies are not required to make findings on issues which are not dispositive to the outcome of cases)).

Turning to the respondent's application for CAT protection to Burma, the denial is affirmed (IJ at 12-14). The Immigration Judge properly found the respondent had not been subjected to past torture, and the respondent has not persuasively shown that his presence in an area where the Burmese military engaged in indiscriminate gunfire inflicted "severe physical or mental pain and suffering" so as to constitute torture (IJ at 12; Respondent's Br. at 9). 8 C.F.R. § 1208.18(a)(5).

The Immigration Judge also determined that, based on the testimony and record evidence of country conditions in Burma, the respondent did not show a sufficient likelihood of future torture. *See Matter of Z-Z-O-*, 26 I&N Dec. 586 (BIA 2015) (holding that determinations as to the likelihood of future events are findings of fact that are reviewed for clear error). The Immigration Judge found that while the respondent's status as a member of the minority Karen ethnic group and Christian faith places him at some risk of harm, the overall evidence does not show that he personally is more likely than not to face torture upon return to Burma. *Jima v. Barr*, 942 F.3d 468, 472 (8th Cir. 2019) (holding that CAT protection requires the noncitizen to demonstrate he faces a personal risk of torture rather than a generalized fear of violence). The Immigration Judge specifically considered testimony that the respondent will likely be detained upon reentry to Burma and may encounter a military checkpoint within the interior, where incidents of torture have been reported to take place (IJ at 13; Tr. at 64-67, 71-77; Exh. 9; Respondent's Br. at 11). The Immigration Judge nevertheless found without error that there are approximately 7 million members of the Karen ethnic group in Burma, and these reported incidents of harm do not demonstrate torture is so pervasive so as to establish the respondent himself is more likely than not to experience similar treatment (IJ at 14; Tr. at 155-156; Exhs. 8A-8B). *See Omar v. Barr*, 962 F.3d 1061, 1065 (8th Cir. 2020) (affirming CAT denial where country reports "discussed human rights violations at too high a level of generality," and the mistreatment suffered by the applicant's minority group "was not sufficiently widespread"); *see also Chuor v. Garland*, 43 F.4th 820, 825 (8th Cir. 2022) (affirming CAT denial where there was no evidence of a "current or specific threat" of torture). Thus, in considering all factors relevant to the possibility of future torture, this Board is unpersuaded that the respondent has met his burden of proof for protection under the CAT. *Omar*, 962 F.3d at 1065 (reiterating CAT claims "must be considered in terms of the aggregate risk of torture from all sources").

Lastly, the respondent argues the Immigration Judge erred in designating Thailand as an alternative country of removal (Respondent's Br. at 4). The governing provisions of the INA explicitly authorize removal of a noncitizen to "the country from which the alien was admitted to the United States." INA § 241(b)(2)(E)(i), 8 U.S.C. § 1231(b)(2)(E)(i). The Immigration Judge found without clear error that the respondent resided in Thailand prior to immigrating to the United States and was admitted to the United States as a refugee after departing Thailand (IJ at 2; Tr. at 79-80, 89-90, 101, 128, 152; Exh. 3). Pursuant to section 241, the Immigration Judge properly entered an alternative order of removal to Thailand, if removal to Burma is "impracticable, inadvisable, or impossible." INA § 241(b)(1)(C)(iv), 8 U.S.C. § 1231(b)(1)(C)(iv).[4]

Accordingly, the following order will be entered.

ORDER: The respondent's appeal is dismissed.

[4] The respondent, through counsel, does not challenge the Immigration Judge's denial of asylum and related relief of removal to Thailand (IJ at 9, 12; Tr. at 158). As such, the issue is deemed waived. *Matter of N-A-I-*, 27 I&N Dec. 72, 73 n.1 (BIA 2017) (providing where a respondent does not challenge a finding addressed in an Immigration Judge's decision, that issue is waived before the Board).

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6) (b)((b)(6) (b)(6)

Respondent

FILED
Jul 05, 2023

ON BEHALF OF RESPONDENT: John D. DeWald, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Omaha, NE

Before: Borkowski, Temporary Appellate Immigration Judge[1]

BORKOWSKI, Temporary Appellate Immigration Judge

The respondent, a native and citizen of Burma, appeals from the decision of the Immigration Judge, dated January 12, 2023, denying his applications for asylum and withholding of removal pursuant to sections 208 and 241(b)(3) of the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1158, 1231(b)(3), and protection under the regulations implementing the Convention Against Torture ("CAT").[2] The respondent has filed a brief in support of the appeal. The Department has not filed a brief on appeal. The appeal will be dismissed.

We review the findings of fact made by the Immigration Judge, including the determination of credibility, for clear error. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including questions of judgment, discretion, and law, de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent does not challenge the issue of removability on appeal, so the issues before us are whether the respondent established eligibility of asylum, withholding of removal under the INA, or protection under the CAT. The respondent contends that he will be harmed if he returns to Burma based on his Karen ethnicity.

On appeal, the respondent has not specifically challenged the Immigration Judge's determination that his conviction of attempted sexual assault on a child in the first degree in violation of Nebraska Statute 28.319.01(1), for which he was sentenced to incarceration for 10 to

[1] Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. *See generally* 8 C.F.R. § 1003.1(a)(1), (4).

[2] The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994).

20 years, is a particularly serious crime (IJ at 4-5; Tr. at 11). *See* INA §§ 208(b)(2)(A)(ii) and 241(b)(3)(B), 8 U.S.C. §§ 1158(b)(3)(B), 1231(b)(3)(b); 8 C.F.R. § 1208.16(d)(2); see also *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) (recognizing that when a respondent does not appeal an aspect of the Immigration Judge's decision, that issue is waived); *Matter of N-A-M-*, 24 I&N Dec. 336, 342 (BIA 2007); *Matter of L-S-*, 22 I&N Dec. 645, 650-51 (BIA 1999). We thus deem this issue, which is dispositive as to whether the respondent is eligible for asylum and withholding of removal under the INA and under the CAT, to be waived. *See Matter of Cervantes*, 22 I&N Dec. 560, 561 n.1 (BIA 1999) (declining to address an issue not raised by a party on appeal); *Matter of Gutierrez*, 19 I&N Dec. 562, 565 n.3 (BIA 1988) (same). We therefore affirm the Immigration Judge's denial of the respondent's applications for asylum and withholding of removal under the INA and the CAT (IJ at 4-5).

We also affirm the Immigration Judge's denial of the respondent's claim for deferral of removal under the CAT (IJ at 5-12). 8 C.F.R. § 1208.17(a). The Immigration Judge found that the respondent, who has not resided in Burma since 1995, was not subjected to torture prior to his departure from that country (IJ at 8; Tr. at 37-38). *See* 8 C.F.R. § 1208.16(c)(3)(i) (stating that in assessing whether it is more likely than not that an applicant would be tortured in the country of removal, evidence of past torture is considered), 8 C.F.R. § 1208.17(a). In doing so, the Immigration Judge concluded that the harm the respondent experienced in Burma, which the record reflects consisted of briefly being taken as a child by the Burmese military to potentially serve as a porter, observing incidents of violence perpetrated by the Burmese military, and living as an internally displaced person, was not of sufficient severity to constitute torture as a matter of law (IJ at 8, Tr. at 40-45).[3] We do not perceive clear error of fact or error of law in the Immigration Judge's determination in this regard (IJ at 8; Respondent's Br. at 5). *See* 8 C.F.R. § 1208.18(a)(2) (indicating that, "[t]orture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture.").

We also perceive no clear error of fact or error of law in the Immigration Judge's determination that the respondent has not meet his burden of proof to establish that he is more likely than not to be subjected to torture if he returns to Burma (IJ at 9-12). The respondent argues that his testimony, the testimony of his witness, and country conditions evidence demonstrate that he will be tortured when he is processed by government officials upon his return to Burma as a member of the Karen ethnic minority or at some point following his release following that processing (Respondent's Br. at 6-8).

We affirm the Immigration Judge's determination that the respondent has not demonstrated a sufficiently particularized likelihood of being subjected to torture to meet his burden of proof (IJ at 8-10). In assessing the likelihood that the respondent would be tortured, the Immigration Judge appropriately considered the testimony of the respondent, his witness, and the evidence of human rights violations in Burma (IJ at 6-7). *See* 8 C.F.R. § 1208.16(c)(3)(iii).

[3] While the counsel on appeal paints a much bleaker picture of what the respondent experienced in Burma as a child (Respondent's Br. at 5), statements of counsel in a brief are not evidence. *See Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Based on this evidence, the Immigration Judge correctly determined that the respondent, who has not been in Burma for more than a quarter of a century, has not shown that he will be individually targeted for torture, and that the evidence of human rights violations does not demonstrate that the respondent faces a personal risk of torture such that it is more likely than not that he will be tortured. *See Keta v. Garland*, 44 F.4th 747, 752 (8th Cir. 2022) (country report evidence of likely imprisonment and torture "very limited and anecdotal"); *Jima v. Barr*, 942 F.3d 468, 472 (8th Cir. 2019) (holding that CAT protection requires the noncitizen to demonstrate he faces a personal risk of torture rather than a generalized fear of violence); *Matter of J-F-F-*, 23 I&N Dec. 912, 917-18 (A.G. 2006) (recognizing that to establish eligibility for protection under the CAT, evidence must show that any step in the hypothetical chain of events is more likely than not to happen, and that the entire chain will come together to result in the probability of torture of respondent.).

The Immigration Judge credited the witness' testimony that the respondent would be processed by Burmese government officials when he returns to Burma as an individual being deported from the United States (IJ at 10). However, the Immigration Judge concluded that the respondent did not meet his burden of proof to establish that individuals of Karen ethnicity are more likely than not to be tortured during this processing (IJ at 10-11).[4] The Immigration Judge's finding that the respondent did not demonstrate that members of the Karen ethnic group are more likely than not to be tortured when they return to the country is not clearly erroneous (IJ at 10).

Moreover, the respondent does not address in his brief the Immigration Judge's determination that he can relocate to a region within Burma in which the Karen ethnic group comprises a majority of the population, to avoid being targeted on account of his ethnicity outside the context of this initial processing upon his return (IJ at 11). *See* 8 C.F.R. § 1208.16(c)(3)(ii) (stating that in assessing whether it is more likely than not that an applicant would be tortured in the country of removal, evidence that the applicant could relocate to a part of the country where he is not likely to be tortured is considered). Thus, the respondent has not established that it is more likely than not that anyone in Burma would inflict severe pain or suffering that constitutes torture upon him and the Immigration Judge therefore correctly denied the respondent's application for deferral of relief under the CAT (IJ at 11-12). *See* 8 C.F.R. § 1208.18(a)(1).

Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.

[4] We acknowledge that respondent's argument regarding the Immigration Judge's use of the phrase "automatic torture" in the decision (IJ at 10-11; Respondent's Br. at 8). While the use of this phrase may have been inartful, the Immigration Judge plainly understood that the correct burden of proof was "more likely than not," as he clearly articulated and applied this standard throughout the decision (IJ at 5, 7, 10-11).

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)

Respondent

FILED
Nov 22, 2022

ON BEHALF OF RESPONDENT: Pro se

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Omaha, NE

Before: Couch, Appellate Immigration Judge

COUCH, Appellate Immigration Judge

The respondent's appeal will be summarily dismissed under the provisions of 8 C.F.R. §§ 1003.1(d)(2)(i)(A), (E). The Notice of Appeal does not contain statements that meaningfully apprise the Board of specific reasons underlying the challenge to the Immigration Judge's decision. *See Matter of Lodge*, 19 I&N Dec. 500 (BIA 1987); *Matter of Valencia*, 19 I&N Dec. 354 (BIA 1986).

Additionally, the respondent checked the block on the Notice of Appeal indicating that a separate written brief or statement would be filed in support of the appeal. The Notice of Appeal contains a clear warning that the appeal may be subject to summary dismissal if the appellant indicates that such a brief or statement will be filed and, within the time set for filing, fails to file the brief or statement and does not reasonably explain such failure. The respondent was granted the opportunity to submit a brief or statement in support of the appeal. However, the record indicates that he did not file such brief or statement, or reasonably explain the failure to do so, within the time set for filing. Accordingly, the appeal will be summarily dismissed under the provisions noted above.

ORDER: The respondent's appeal is summarily dismissed.

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)
(b)(6), A (b)(6)
(b)(6), A (b)(6)

Respondents

FILED
Dec 20, 2022

ON BEHALF OF RESPONDENTS: Awng Seng Lahtaw, Esquire

ON BEHALF OF DHS: Shanti K. Chadeesingh, Assistant Chief Counsel

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Orlando, FL

Before: Wetmore, Chief Appellate Immigration Judge

WETMORE, Chief Appellate Immigration Judge

The respondents' appeal of the Immigration Judge's June 10, 2022, decision is pending before the Board. On October 6, 2022, the respondents and the Department of Homeland Security filed a joint motion to administratively close these removal proceedings. We will grant the joint motion and administratively close these proceedings.

If either party to this case wishes to reinstate the proceedings, a written request to reinstate the proceedings may be made to the Board. The Board will take no further action in the case unless a request is received from one of the parties. The request must be submitted directly to the Clerk's Office, without fee, but with certification of service on the opposing party.

Accordingly, the following order will be entered.

ORDER: The joint motion is granted, and these proceedings are administratively closed.

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)
(b)(6), A (b)(6)
(b)(6), A (b)(6)

Respondents

FILED
Dec 20, 2022

ON BEHALF OF RESPONDENTS: Awng Seng Lahtaw, Esquire

ON BEHALF OF DHS: Shanti K. Chadeesingh, Assistant Chief Counsel

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Orlando, FL

Before: Wetmore, Chief Appellate Immigration Judge

WETMORE, Chief Appellate Immigration Judge

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Accordingly, the following order will be entered.

ORDER: The joint motion is granted, and these proceedings are administratively closed.

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)
(b)(6), A (b)(6)
(b)(6), A (b)(6)

Respondents

FILED
Dec 20, 2022

ON BEHALF OF RESPONDENTS: Awng Seng Lahtaw, Esquire

ON BEHALF OF DHS: Shanti K. Chadeesingh, Assistant Chief Counsel

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Orlando, FL

Before: Wetmore, Chief Appellate Immigration Judge

WETMORE, Chief Appellate Immigration Judge

The respondents' appeal of the Immigration Judge's June 10, 2022, decision is pending before the Board. On October 6, 2022, the respondents and the Department of Homeland Security filed a joint motion to administratively close these removal proceedings. We will grant the joint motion and administratively close these proceedings.

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ORDER: The joint motion is granted, and these proceedings are administratively closed.

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)

Respondent

FILED
Jun 06, 2023

ON BEHALF OF RESPONDENT: Patrick Wang, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, New York, NY

Before: Mann, Appellate Immigration Judge

MANN, Appellate Immigration Judge

The respondent has appealed the Immigration Judge's decision of November 16, 2021. However, the Board is unable to review this matter, as the recording of the testimony of the hearing and the Immigration Judge's oral decision are missing and could not be transcribed. As we consider the transcript and Immigration Judge decision necessary for our review of this matter, we will return the record to the Immigration Court to shall take such steps as are necessary and appropriate to enable preparation of a complete transcript of the proceedings including a new hearing, if necessary.

ORDER: The record is returned to the Immigration Court for further action as appropriate and certification to the Board by the Immigration Judge thereafter.

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6), A (b)(6)

Respondent

FILED
Jun 13, 2023

ON BEHALF OF RESPONDENT: David G. Goldbas, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Buffalo, NY

Before: Adkins-Blanch, Deputy Chief Appellate Immigration Judge

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The respondent, a native and citizen of Burma, appeals from the February 16, 2021, decision of the Immigration Judge denying her applications for asylum under section 208 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1158, withholding of removal under section 241(b)(3) of the INA, 8 U.S.C. § 1231(b)(3), and her request for protection under the regulations implementing the Convention Against Torture.[1]

During the pendency of the respondent's appeal, the Secretary of the Department of Homeland Security extended the registration period for initial applicants under the Temporary Protected Status ("TPS") designation for Burma (Myanmar). *See* 86 Fed. Reg. 41986 (Aug. 4, 2021). The respondent is from Burma and appears eligible to register for TPS. Under the circumstances of this case, and in light of intervening precedent, we will administratively close these proceedings. *See Matter of Cruz-Valdez*, 28 I&N Dec. 326 (A.G. 2021); *Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012). If either party to this case objects to the continued administrative closure of these proceedings, a written request to reinstate the proceedings may be made to the Board. The Board will take no further action in the case unless a request is received from one of the parties. The request must be submitted directly to the Board of Immigration Appeals Clerk's Office, without fee, but with certification of service on the opposing party.

Accordingly, the following order will be entered.

ORDER: The proceedings before the Board in this case are administratively closed.

[1] The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994).