

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT

LIN & VALDEZ, L.L.P.  
STEWART LIN, ESQ.  
9999 BELLAIRE BLVD, SUITE 360  
HOUSTON, TX 77036

IN THE MATTER OF

FILE A 2 [REDACTED] 2

DATE: Dec 15, 2014

UNABLE TO FORWARD - NO ADDRESS PROVIDED

ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO:

BOARD OF IMMIGRATION APPEALS  
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ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT  
[REDACTED]  
[REDACTED]

OTHER: *S-g order*

COURT CLERK  
IMMIGRATION COURT

CC: [REDACTED] A.C.C.  
[REDACTED]  
[REDACTED]

FF

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT

In the Matter of:

Respondent:

File Number: A 2 [REDACTED] 2

**CHARGE:** Section 212(a)(6)(A)(i), present in the United States without being admitted or paroled

**APPLICATION:** Asylum pursuant to Section 208(a) of the Act  
Withholding of Removal pursuant to Section 241(b)(3) of the Act  
Protection under Article 3 of the Convention Against Torture pursuant to 8 C.F.R. § 1208.16

**FOR THE RESPONDENT:**

Stewart Lin, Esq.  
Lin & Valdez, LLP  
9999 Bellaire Blvd., Suite 360  
Houston, Texas 77036

**FOR DHS:**

[REDACTED], Esq.  
Department of Homeland Security  
[REDACTED]  
[REDACTED]

**DECISION AND ORDER OF THE IMMIGRATION JUDGE**

**I. Procedural History**

The respondent is a native and citizen of [REDACTED] who entered the United States without inspection. Exh. 1. On February 24, 2012, the respondent submitted an affirmative application for asylum with the [REDACTED] Asylum Office of U.S. Citizen and Immigration Services (CIS). That application was denied and on June 20, 2012, the Department of Homeland Security (DHS) served the respondent with a Notice to Appear (NTA), charging [REDACTED] as removable from the U.S. pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA or the Act) as an alien present in the U.S. without being inspected. Exh. 4 at 1-2; Exh. 1.

Accordingly, the Court finds that DHS has failed to rebut the presumption of a well-founded fear of future persecution if the respondent were to return to China.

### V. Discretion

Asylum is a discretionary form of relief. INA § 208(b)(1)(A). Therefore, when an applicant establishes statutory eligibility, she has the burden to establish that the Court should exercise its discretion in her favor. *INS v. Cardoza-Fonseca*, 480 U.S. at 427-28 & n.5; 8 C.F.R. § 1208.14(a). In the present case, the record is void of any factors that would necessitate an adverse discretionary finding. Therefore, the Court finds that the respondent is statutorily eligible for asylum and merits such relief as a matter of discretion.

### VI. Conclusion

Based on the foregoing, the Court finds that the respondent is both statutorily eligible for as well as deserving of asylum in the discretion of the Court. As a result, it is not necessary to address the respondent's applications for Withholding of Removal, pursuant to INA § 241(b)(3), or protection under the Convention Against Torture, pursuant to 8 C.F.R. § 1208.16.

Accordingly, after careful consideration, the following order shall be entered:

### ORDER

**IT IS HEREBY ORDERED** that the respondent's application for asylum is **GRANTED**.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Immigration Judge