



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals  
Office of the Clerk

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Name: [REDACTED]

A 2 [REDACTED] 2

Date of this notice: 6/6/2014

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

[REDACTED]  
Chief Clerk

Enclosure

Panel Members:  
Wendtland, Linda S.  
Cole, Patricia A.  
Pauley, Roger

TranC  
User team: Docket

Falls Church, Virginia 20530

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File: A2 [REDACTED] 2 - [REDACTED]

Date: JUN 06 2014

In re: [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Stewart Lin, Esquire

ON BEHALF OF DHS: [REDACTED]  
Assistant Chief Counsel

CHARGE:

Notice: Sec. 237(a)(1)(C)(i), I&N Act [8 U.S.C. § 1227(a)(1)(C)(i)] -  
Nonimmigrant - violated conditions of status

APPLICATION: Asylum; withholding of removal; Convention Against Torture

On January 11, 2012, an Immigration Judge denied the respondent's application for asylum as well as his request for withholding of removal and protection pursuant to the regulations implementing the United States' obligations under the Convention Against Torture ("CAT"). The respondent, a native and citizen of the People's Republic of China, now appeals. The respondent's request for a waiver of the appellate filing fee is granted. *See* 8 C.F.R. § 1003.8(a)(3) (2013). The record will be remanded.

For these reasons we are unable to affirm the Immigration Judge's ruling in this case. The record will be remanded for further proceedings. On remand, the parties shall be given an opportunity to present updated evidence regarding the asylum claim. The respondent also shall have an opportunity to apply for any other relief for which he currently may be eligible.

Accordingly, the following order will be entered.

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<sup>3</sup> Also with regard to claimed persecution by a government entity – such as police officers in this instance – the respondent need not independently show an unwillingness or inability by *other* government officials to control the persecutors, contrary to the Immigration Judge's suggestion (I.J. at 8-9). The requirement to demonstrate the government's unwillingness or inability to control the persecutors pertains only when the persecutors are not themselves associated with the government. See, e.g., *Matter of S-V-*, 22 I&N Dec. 1306, 1312 (BIA 2000), *disapproved on other grounds by Hakim v. Holder*, 628 F.3d 151, 155-57 (5th Cir. 2010).

