



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: NIFADEV, MIKHAIL BORISOVICH A 098-134-930

Date of this notice: 1/5/2015

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

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Holmes, David B.

williams

Userteam: Docket

Falls Church, Virginia 20530

File: A098 134 930 – Cleveland, OH

Date: JAN - 5 2015

In re: MIKHAIL BORISOVICH NIFADEV

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Charleston M.K. Wang, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

This case is before the Board pursuant to an August 18, 2014, decision of the United States Court of Appeals for the Sixth Circuit. The Sixth Circuit found the respondent to be a refugee, and remanded the case for the Board to examine three issues. Given the Sixth Circuit's decision and the facts as set forth by the court, we find that the conduct of the Uzbekistan officials constituted persecution. Given that determination, we find that the respondent appears to be eligible for asylum, and we further find that the record does not reflect that a denial of asylum in the exercise of discretion is warranted. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Given our decision regarding asylum, we need not reach the third and final issue remanded by the Sixth Circuit, namely reconsideration of the respondent's eligibility for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1231(b)(3), and protection under the Convention Against Torture. Accordingly, the following orders will be entered:

ORDER: The Board's May 14, 2013, and September 23, 2013, decisions are vacated and the respondent is found eligible for asylum.

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h).



FOR THE BOARD