



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: WANG, FAN

A 088-152-814

Date of this notice: 7/12/2019

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:
Donovan, Teresa L.
Greer, Anne J.
Noferi, Mark

Userteam: Docket

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Falls Church, Virginia 22041

File: A088-152-814 – York, PA

Date: JUL 12 2019

In re: Fan WANG

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Thomas E. Moseley, Esquire

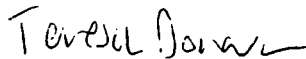
APPLICATION: Termination

On August 1, 2018, the United States Court of Appeals for the Third Circuit granted the alien's petition for review and remanded the case to us for further proceedings. *Wang v. Att'y Gen. of the U.S.*, 898 F.3d 341 (3rd Cir. 2018). These proceedings will be terminated.

Previously, we affirmed the Immigration Judge's June 4, 2015, decision finding that the respondent's conviction for the offense of making a false report in connection with commodities transactions in violation of 7 U.S.C. §§ 6b(a)(1)(B) and 13(a)(2) constitutes an aggravated felony within the meaning of section 101(a)(43)(M)(i) of the Act, 8 U.S.C. § 1101(a)(43)(M)(i) (BIA at 3).¹ Accordingly, we affirmed the Immigration Judge's decision denying the respondent's motion to terminate these proceedings.

The Third Circuit found that the term "false report or statement" in § 6b(a)(1)(B) did not import the common law meaning of deceit or fraud because simply making a false statement did not necessarily involve either fraud or deceit (in contrast to the other provisions of section 6b(a)(1), which specifically included terms such as "defraud" or "deceive"). *Wang v. Att'y Gen. of the U.S.*, 898 F.3d at 348. In light of the Third Circuit's determination that § 6b(a)(1)(B) is a mere "offense of falsehood" and not a crime of "deceit," we now conclude that § 6b(a)(1)(B) is not an aggravated felony within the meaning of section 101(a)(43)(M)(i) of the Act because it does not involve fraud or deceit. Accordingly, we will sustain the respondent's appeal and terminate these removal proceedings.

ORDER: The appeal is sustained, and removal proceedings terminated.



FOR THE BOARD

¹ 7 U.S.C. § 6b(a)(1)(B) states that "[i]t shall be unlawful for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record."