

ORDER

petition had not yet been adjudicated. On August 28, 1998, the IJ ordered Bayudan deported.

Bayudan appealed to the BIA. The BIA affirmed the IJ's finding of Bayudan's removability and ineligibility for cancellation, but remanded for redetermination of Bayudan's eligibility for waiver under § 212(h)(1)(B).

Upon remand, the IJ found that Bayudan could not establish by a preponderance of the evidence that his wife would suffer "extreme hardship" upon his removal from the United States and held that therefore Bayudan was not statutorily eligible for waiver under § 212(h)(1)(B). The IJ again ordered Bayudan deported on December 1, 1999.

