

In re C-Y-Z-, Applicant

Decided by Attorney General December 1, 2004

Decided by Board June 4, 1997¹

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

FOR APPLICANT: Yee Ling Poon, Esquire, New York, New York

FOR DEPARTMENT OF HOMELAND SECURITY: Joe D. Whitley, General Counsel

BEFORE THE ATTORNEY GENERAL
(December 1, 2004)

The request of the Commissioner of the Immigration and Naturalization Service to certify for review the captioned decision of the Board of Immigration Appeals pursuant to 8 C.F.R. § 3.1(h)(1)(iii) (2002)² is denied.

¹ The Board's June 4, 1997, decision in this case was published as *Matter of C-Y-Z-*, 21 I&N Dec. 915 (BIA 1997).

² On March 1, 2003, the functions of the Immigration and Naturalization Service ("INS") were transferred from the Department of Justice to the Department of Homeland Security. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002). The Executive Office for Immigration Review, however, remains in the Department of Justice. On February 28, 2003, the Attorney General published a technical rule that moved 8 C.F.R. § 3.1(h) to 8 C.F.R. § 1003.1(h). *See* Aliens and Nationality; Homeland Security; Reorganization of Regulations, 68 Fed. Reg. 9824, 9830 (Feb. 28, 2003). In addition, the authority of the INS Commissioner to refer decisions of the Board of Immigration Appeals to the Attorney General is now vested in the Secretary of Homeland Security or in "specific officials of the Department of Homeland Security designated by the Secretary with the concurrence of the Attorney General." *Id.* at 9832 (to be codified at 8 C.F.R. § 1003.1(h)(1)).