

No. 00-3314

IN THE UNITED STATES COURT OF APPEALS

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STATUTES

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SUMMARY OF THE CASE–NO ORAL ARGUMENT REQUESTED

In this immigration case, Petitioner Reazul Islam (“Islam”) seeks review of a final order of the Board of Immigration Appeals (“Board” or “BIA”) finding that Islam is not eligible for asylum under the Immigration and Nationality Act (“INA”

deportation cases.

This Court's jurisdiction arises under Section 106(a) of the Immigration and Nationality Act ("INA" or "Act"), 8 U.S.C. § 1105a(a), as amended by Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30 1996). Although Section

which he was admitted pursuant to INA § 101(a)(15), 8 U.S.C. 1101(a)(15)(Supp. IV 1998). Id. at 300. Islam admitted the factual allegations in the Order to Show Cause and requested relief in the form of asylum and withholding of deportation. Id. at 31-32. After a hearing, the Immigration Judge denied Islam's application for asylum and withholding of deportation but granted Islam the privilege of voluntary departure. Id. at 31-37. Islam appealed the Immigration Judge's decision to the

as the Minister of Communications, and a number of others serve in the Cabinet.

Id. The Immigration Judge further noted that neither the State Department nor

Id.

D. The Decision of the Board of Immigration Appeals

In a decision dated August 24, 2000, the Board dismissed Islam's appeal.

Id. at 2-3. The Board found that after a review of the record of proceedings, the Immigration Judge's decision, and Islam's contentions on appeal, the Immigration

²Where, as here, the Board clearly adopts and incorporates the Immigration Judge's reasoning, the court reviews the Immigration Judge's decision. See Martirosyan v. INS, 229 F.3d 903, 908 (9th Cir. 2000). Because the Board in this case adopted the reasoning of the Immigration Judge, this brief will attribute the reasoning in the Immigration Judge's decision to the Board.

provide evidence that anyone was looking for him or his family members.

ARGUMENT

I. Standard Of Review

469, 472 (7th Cir. 1995)(quoting Milosevic v. INS, 18 F.3d 366, 371 (7th Cir. 1994)). Instead, the court’s “inquiry is whether there is substantial evidence for the findings made by the BIA, not whether there is substantial evidence for some other finding that could have been, but was not, made.” Mazariegos v. Office of the U.S.

would have sustained his burden of proof that he suffered past persecution and has a well-founded fear of persecution. Pet. Br. at 9. Islam alleges that the Board erred

³Persecution is an “extreme concept.” Lim v. INS, 224 F.3d 929, 936 (9th Cir. 2000). Persecution is “either a threat to the life or freedom of, or the infliction of suffering and harm upon, those who differ in a way regarded as offensive.” Miranda v. INS

⁴Even if the Board erred in not finding past persecution and requiring the government to rebut the presumption of a well-founded fear of future persecution,

⁶An application for asylum made in deportation proceedings is also considered to be a request for withholding of deportation. 8 C.F.R. § 208.3(b)(2000). Islam does not allege that the Board erred in finding that he did not establish eligibility for withholding of deportation. In any case, because the clear probability standard is more difficult to meet than the well-founded fear standard for asylum, and substantial evidence supports the Board's denial of asylum in this case, this Court must also affirm the Board's denial of withholding of deportation. See Kratchmarov v. Heston

CONCLUSION

For the foregoing reasons, the decision of the Board should be affirmed, and the petition for review denied.

Respectfully Submitted,

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Dated: February ____, 2001

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STATEMENT OF RELATED CASES

Based on a survey of the attorneys in this office, Counsel for Respondent

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(A)(7)(B),(C), I certify

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of February, 2001, two copies of the foregoing "Brief for Respondent" were served upon the undersigned for petitioner, by depositing same in the United States Department of Justice, Washington, D.C., in time for the Department's same-day mail collection service, to be sent by United States mail, first-class postage prepaid, addressed to:

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