

# United States Court of Appeals For the First Circuit

No. 00-2585

RASAC OLUFEMI OPERE,

Petitioner,

v.

UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

PETITION FOR REVIEW OF AN ORDER  
OF THE BOARD OF IMMIGRATION APPEALS

Before

Torruella, Circuit Judge,

Gibson,\* Senior Circuit Judge,

and Lipez, Circuit Judge

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\* Hon. John R. Gibson, of the Eighth Circuit, sitting by designation.



TORRUELLA,

her sister. On December 27, 1993, Alana filed a Petition for Alien Relative, commonly referred to as a "green card," for Opere based on their marriage. Alana and Opere were interviewed under oath, together and individually, on February 28, 1994 by Immigration Officer Higgins. During that interview, Opere and Alana each told Higgins that they were living together at 53 Pine Street. Alana, however, later recanted and, on February 28, 1994, withdrew the green card petition on the basis that she and Opere were in fact separated as of December 1993. The INS subsequently denied the petition.

During his deportation proceeding before the immigration judge, Opere testified about his marriage interview with Officer Higgins. Opere testified that at the beginning of the interview, he was placed under oath. When asked by counsel for the government why he had falsely testified that he and Alana were living together, Opere stated, "I was afraid I want everything to work together, and I know if I tell him we were not living together, I don't know what he is going to -- I lied." Counsel for the government then asked whether he lied because he thought Higgins would deny the green card if he knew that Opere and his wife were not living together. Opere answered, "Yes."

In a decision dated July 20, 1995, the immigration judge found Opere deportable as charged, denied his application for suspension of deportation and his request for termination of proceedings and voluntary departure, and ordered him deported to

Nigeria. In evaluating the requirements under the INA for suspension of deportation, the immigration judge found that Opere had established seven

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<sup>1</sup> The decision on this ground is the only issue presented on appeal.

his false statements should not be taken into account. The Board

**DISCUSSION**

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The  
applicant's discretionary.

v. INS (1999) has been held to be applicable.

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<sup>2</sup> The Board sustained Opere's appeal for voluntary departure.

<sup>3</sup> Though repealed, this provision still applies to this case. See Bernal-Vallejo, 195 F.3d at 60 n.1.



