

UNITED STATES COURT OF APPEALS

TABLE OF CONTENTS

B. **The Board of Immigration Appeals erred and failed to consider a**

IX. Conclusion PG. 49.

CERTIFICATE OF SERVICE PG. 50.

CERTIFICATE OF COMPLIANCE, WORD VOLUME, PG. 51.

TABLE OF CONTENTS

X. Addendum

A. October 10, 2000 Decision of the Board of Immigration Appeals

pgs 1,2(R2,3)

H. December 09, 1998 Decision of the Immigration Court pgs

3,4(R190,191)

I. Oral Decision of the Immigration Judge December 09, 1998 pgs

5-20(R194-210)

I. TABLE OF AUTHORITIES

C. Case Law

Ananeh-Firempong v. INS, 766 F.2d 621 (1

Osario v. INS, 18 F.3d. 1017 (2nd

Petition for review and the Motion for a stay of deportation was filed with the Eighth Circuit Court of Appeals on November 08, 2000.

III. STATEMENT OF THE ISSUES.

A. Does persecution emanating from the Mafia, a quasi-political/criminal group constitute imputed political persecution? Does this constitute political persecution based upon the mixed motive theory?

Desir v. Ilchert, 840 F.2d 723 (9th)

Appeals was denied on October 10, 2000 and the ruling of the Immigration Judge was upheld. (Addendum 1,2(R2,3)). The Board of Immigration Appeals merely affirmed the decision without giving sufficient reason of the Immigration Judge. 0-32.25

with her mother and have told her that she continues to owe them money and
not onl

obtained a visa for her and her two children. She arrived in the United States at

countries through the use of extortion and murder. (Appendix at 24,25 (R70, 71 (Organized Crime in the Ukraine))).

ruling of the Board of Immigration Appeals in the *Matter of Chen*, 20 I&N 16, (BIA 1989) an alien can be granted asylum on past persecution alone. Factors such as the existence of human rights abuses in the home country; the applicants genuine fear of return to his home country; the severity of persecution suffered. The Petitioner can meet the requirements with each of these criteria and thus deserves asylum on the basis of past persecution which increased in severity due to its cumulative nature.

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E. The Board of Immigration Appeals erred as a matter of law and failed to consider a valid claim for asylum based on a well-founded fear of

B. Historical precedent: consideration of the standard of review in the context of the serious deprivation resulting from deportation.

A measure of review was set forth in *Sherman v. INS*, 350 F.2d 894 (2nd Cir. 1963). The court stated that a decision to deport an alien should be made upon facts most clearly true. *Tw* (*Sherman v. INS*, 350 F.2d 894 (2nd Cir. 1963)).

Supreme Court's interest in protecting the rights of aliens subject to

generally utilized a four prong test for determining whether persecution is occurring: 1) the alien possesses a belief or characteristic the persecutor seeks to overcome in others by means of punishment of some sort; 2) the persecutor is already aware or could easily become aware, that the alien possesses this belief or characteristic; 3) the persecutor has the capability of punishing the alien 4) the persecutor has the inclination to punish the alien. *In Re Acosta*, 19 I&N Dec. 211 (BIA 1985).

F. The standard of persecution for

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protection money and other “extra legal” payments. (Appendix at 44 (R94 (Embarrassment looms for Ukraine))). Business willingly acknowledge that they must pay bribes for every government service. (Appendix 45 (R95 (Embarrassment looms for Ukraine))).

The Mafia represents a political entity with specific political designs and objectives and encompasses every level of government. “Organized crime” according to Senator John Kerry (D-MA) “is the new communism, the new

history of persecution of defectors. *McMullen v. INS* at 1318. In the present case the Petitioner's husband was a individual with presumed association with the Mafia. (R. at 236, 237(T)) He was not employed under normal conditions and his behavior was secretive and unusual for a family man. (R. at 236, 237(T)). He was arrested on more than one occasion for acts similar to

have looked to whether a reasonable analysis would justify a view that the persecution was based in part on one of the five protected grounds. *Matter of TMB*, Int. Dec.3307 (BIA 1997), *Singh v. Ilchert*, 63 F.3d 1501, 1502 (9th Cir. 1995). This evaluation can be broken down into the mixed motive analysis: (1)

conform religious opinion. This could have been an attempt to dissuade her from attending church.

At the police station following the above-mentioned incident in early 1996, the Petitioner was approached by someone with an anti-religious message. A person in plain clothes approached the Petitioner after she had been sitting for several hours without any assistance and asked her if she attended church, when she replied affirmatively, he then replied that the state deprive her of her parental rights because instead of watching her children she was attending church. (R. at 251(T)). This incident seems out of character with mere debt collection, and may indicate a collusive effort on the part of the Mafia/Police to enforce the old communist principles of persecution and suppression of religious belief, especially belief, especially in the form of Baptist or Evangelical faith. (Appendix at 88-90(R 162-164(Affidavit of Boris Golovko)).

The proximity of these two incidents and the improbability of their random occurrence could represent a collusive attempt by the Mafia/Police to dissuade the Petitioner from attending the Baptist Church. This constituted an attempt to modify opinion rather than conduct on the basis of dissuading the practice of religious observance.

of the alien's beliefs; 2) special individualized circumstances indicating that he

or she has been or will be singled out 2.5 1212 Tw (of theutioned yond some generdua2.25 T?

In *Fatin v. INS*, 12 F.3d. 1233, 1242(3rd)

social group. She also was subject to a threat that was individualized to her

C. The Board of Immigration Appeals erred as a matter of law in affirming the Immigration Judge's conclusion that Petitioner had failed to establish that he has suffered past persecution. (Appendix at 18 (R207, oral

forced to stop attending

persecution and the continued possibility of perse

persecution. *Shirazi-Parsa v. INS*, 14 F.3d 1424,1428(9th Cir. 1994). Based upon these considt

(Appendix at 88-90 (R162-164 (affidavit of Boris Golovko, 8-12 (R11-
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demonstrated both the subjective and objective requirements for a well-founded fear of persecution.

F. n2.25ard of Immigration Appeals erred as a matter of law in failing to find application of the Article III of the United Nations Convention aga

CERTIFICATE OF SERVICE

A copy of the foregoing was served upon the United States Department of

