

**FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

ALEXANDRU GUI,









**COUNSEL**

Leah W. Hurwitz, Esq., San Diego, California, for the peti-L



to the United States over thirty years ago and has settled in



created and distributed political literature, and agitated for the human rights of Hungarians and other minorities.

On September 5, 1990 -- just nine months after the Iliescu government assumed power -- police ordered Mr. Gui to the

and get away and put the ocean between me and them, " Mr. Gui left Romania in December 1991. After his departure, the government harassed his parents for information about their son. After the police once again searched Mr. Gui's apart-

tapped. As proof of the tapping, Mr. Gui had explained that police had interrogated him about information he remembered



BIA Decision and Order

In its decision denying asylum and withholding of deporta-

(9th Cir. 1990)). The IJ "must have a legitimate articulable basis to question the petitioner's credibility, and must offer a

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itself will have no political purpose. Furthermore, as Mr. Gui also noted, at some point during 15 years of phone tapping a person is bound to let down his guard.

The IJ's finding with respect to phone tapping is tantamount to saying that someone who knows his phone to be tapped should forbear using the phone at all. Neither the gov-









standards; if the government wanted to persecute him, the IJ reasoned, it would have confiscated his property.

The IJ failed to note that typically all education under Romania's Communist regime was provided by the state. Thus the fact that Mr. Gui's education was state-funded is hardly a surprise. Furthermore, the fact that he was able to continue practicing medicine while politically active -- leaving aside the fact that it is hardly novel to find members of the intelligentsia providing the voice of political dissent -- militates if anything toward finding that Mr. Gui is credible. If his life was so comfortable in Romania -- a car, multiple homes, a sizable income -- why would he be so eager to leave? It was clearly not to advance his career: as he reported at his deportation hearing, Mr. Gui -- a successful surgeon in Romania -- had no license to practice medicine in the United States and had served for five years as a nurse's aide.

Any reason underlying an adverse credibility finding"must be substantial and bear a legitimate nexus to the finding."

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tion that has put him in fear of persecution were he to return to Romania. He has also provided corroborative evidence. Mr. Gui asserts that the wiretapping, hit-and-run attempts to injure or kill him, detention, interrogation, and warrantless searches he has suffered, taken together, constitute past persecution.

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897 (internal quotation marks and citation omitted). A petitioner must show it is "more likely than not that he will be persecuted on account of one of the five enumerated factors were he to return."<sup>4</sup> Id. If a petitioner meets this high standard, the Attorney General must grant withholding of deportation. Id.

In light of the long passage of time and indications that

