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³ Mendoza-Mendoza has characterized the issue as whether the Board abused its discretion. See Pet Br. at 7. This is wrong. The Board denied Mendoza-Mendoza's application because he lacked credibility and failed to demonstrate asylum eligibility based on past persecution or a well-founded fear of future persecution,

the United States is deportable." IN, Tf47 241(a)(1)(B), 8 U.S.C.
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asks the applicant to identify the reasons why he was

that Sanan Tonio was the only Mormon church in the city of Cuchumatenes where he was raised. Id.

An interpreter was used to translate the questions posed to Mendoza-Mendoza from English to Spanish and Mendoza-Mendoza's testimony from Spanish to English. During the hearing, Mendoza-Mendoza's attorney moved to terminate the proceedings on the ground that the interpreter was not competent. A.R. 73-86. When asked by the immigration judge if he understood the interpreter, Mendoza-Mendoza stated, "Yes, it is just that [he] speaks a little fast." A.R. 73. Mendoza-Mendoza also stated, "Yes, I can understand. Slowly, I can understand. But, if not, I will ask again." Id. Mendoza-Mendoza was asked by the immigration judge to leave the courtroom during arguments from both sides on his motion to terminate proceedings. Finally, after Mendoza-Mendoza again stated that he understood the interpreter and wished to go forward with the proceedings, the immigration judge denied his motion to terminate the proceedings and instructed both the interpreter and Mendoza-Mendoza to speak slowly and repeat questions and answers if necessary. A.R. 84-86.

Mendoza-Mendoza discussed a single incident which resulted in his incarceration for four days, at which time his parents' home was allegedly burned down, and led to his departure from Guatemala. He asserted that he was threatened because he practiced Mormonism, and

that he first encountered problems in March of 1991. A.R. 67-68. When asked what happened, Mendoza-Mendoza stated, "People did not want that religion anymore because everyone in town was Catholic . . . I received and was accused by the people for being Mormon, not Catholic and I was locked up without food and water." A.R. 68. When asked specifically who were these people, he stated, "The authorities and everybody in town." Id. He then described the authorities as the Civil Patrol who guard his town and testified, "It was the Civil Patrol that was always looking for me." A.R. 69 When asked if the Civil Patrol locked him up, he stated "Yes. The people began to abuse us and threaten us and they are the ones that went and told the authorities that we were doing other things besides sitting down and

threatened during his stay in San Miguel. A.R. 98. When asked why

the burning of his parents' home. A.R. 39. The immigration judge stated, "[Mendoza-Mendoza] testified that he was held in jail in Todos Santos in 1992, and after four days incarceration was released, only to find that his parents and siblings had disappeared and the house was burned down." Id.

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his attending a Catholic church in Nebraska for two years. A.R. 3, 108-111.

The Board found that Mendoza-Mendoza's argument regarding the adequacy of the interpreter lacked merit because his answers were responsive to the questions posed to him, and he stated during the hearing that he was bilingual and could interpret for the Board.

family disappeared, or that he has been a Mormon since birth. Accordingly, the Board denied Mendoza-Mendoza's asylum claim. Id.

SUMMARY OF ARGUMENT

Substantial evidence in the record supports the Board's denial of Mendoza-Mendoza's asylum and withholding applications. Both the Supreme Court and this Court have held that the Board's asylum eligibility decision can be overturned

persecution in Guatemala on account of his religion. Mendoza-
Mendoza has failed to demonstrate past persecution or a well-founded
fear of future persecution in Guatemala on account of religion. His
asylum claim was predicated upon a single incident of incarceration
for four days in 1992 or 1993 based upon his alleged practice of the
Mormon faith. Mendoza-Mendoza, however, was not a member of the
Mormon faith and was not incarcerated, arrested, or subjected to
fear of future persecutions founded by (a) of the facts and circumstances

religion, as morally reprehensible as it may be.'"

⁵ This provision is now found at 8 U.S.C. § 1231(b)(3(A) (Supp. II 1997).

country have changed to such an extent that the applicant no longer possesses a well-founded fear of persecution upon return. See 1996 WL 291910, at 14; 8 C.F.R.

§ 208.13(b)(1)(i); see also Leiva-Montalvo, 173 F.3d at 751.

1. Substantial Evidence Supports The Board's Finding That Mendoza-Mendoza's Testimony Was Not Credible

The record supports the Board's finding that Mendoza-Mendoza's testimony was not credible. There were several

to attend a Catholic church for two years in Nebraska. A.R. 3, 108-111.

The above inconsistencies in Mendoza-Mendoza's testimony

religion before he left Guatemala in 1994 or that his claimed

⁶Mendoza-Mendoza necessarily fails to demonstrate his

Respectfully submitted,

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CERTIFICATION OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7), and Eighth Circuit Rule 28A(c), I certify that respondent's brief:

- (1) was prepared using Corel WordPerfect 6.1 and Courier type in font size 12;
- (2) is monospaced;
- (3) has 10.5 or less characters per inch;
- (4) does not exceed 40 pages; and
- (5) contains less than 1,300 lines of text.

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CERTIFICATE OF SERVICE

I certify that, on November 5, 2001, I caused two copies of the foregoing Brief for Respondent and one copy of a computer diskette containing the brief to be served upon petitioner, by having a secrg /F0rlaceg thm int a envelope, which wasf fowardsed of amaila

SUMMARY OF THE CASE AND WAIVER OF ORAL ARGUMENT

Rufino Mendoza-Mendoza, a native and citizen of Guatemala, was found deportable for having entered the United States without inspection and was denied the requested relief of asylum and withholding of deportation by the immigration judge. His appeal to the Board of Immigration Appeals was dismissed. The instant petition for review followed.

Substantial evidence in the record supports the Board's decision in this case. Mendoza-Mendoza's testimony was not credible. With no other evidence, his asylum claim necessarily fails. Second, even if Mendoza-Mendoza was credible, he failed to demonstrate to cond,T 1(.25Tj 00as) Tj T*e recorc 's Meell-36 -225Tfearstimonyetiesnot'spa wacanieDup7 T sTj ltantcith tj

(a) the fact that he relocated to San Miguel, Guatemala and remained unharmed for six months following his incarceration, and (b) that the Civil Patrol, which was solely responsible for his incarceration, was disbanded in 1996 by the administration of Guatemalan President Arzu.

Because the Government believes that the issues presented in this case are thoroughly addressed in the briefs, the Government does not request oral argument.