



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals

Office of the Clerk



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Name: ULLAH, SHAKER

A 208-925-863

Date of this Notice: 12/15/2021

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Cassidy, William A.

User team: Docket

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Shaker ULLAH, A208-925-863

Respondent

FILED

Dec 15, 2021

ON BEHALF OF RESPONDENT: Faisal S. Mughal, Esquire

ON BEHALF OF DHS: Simona D. Roberts, Assistant Chief Counsel

IN REMOVAL PROCEEDINGS

On Appeal from a Decision of the Immigration Court, Arlington, VA

Before: Cassidy, Appellate Immigration Judge

Opinion by Appellate Immigration Judge Cassidy

CASSIDY, Appellate Immigration Judge

The respondent, a native and citizen of Pakistan, appeals from the Immigration Judge's November 26, 2018, decision denying his applications for asylum and withholding of removal under sections 208(b)(1)(A) and 241(b)(3)(A) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158(b)(1)(A) and 1231(b)(3)(A), and his request for protection under the regulations implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20. 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994) (CAT), 8 C.F.R. §§ 1208.16(c)-1208.18. The Department of Homeland Security (DHS) has opposed the appeal. The appeal will be dismissed.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

We agree with the Immigration Judge's determination that, assuming the respondent established past persecution on account of a protected ground, the presumption of future persecution has been rebutted by the DHS by a showing that it would be reasonable for the respondent to relocate within Pakistan (IJ at 5-7). 8 C.F.R. §§ 1208.13(b)(1)(i)(B), (ii); *Matter of M-Z-M-R-*, 26 I&N Dec. 28 (BIA 2012); *Matter of D-I-M-*, 24 I&N Dec. 448 (BIA 2008). The Immigration Judge's factual findings regarding the ability to relocate have not been shown to be clearly erroneous. *See* 8 C.F.R. § 1003.1(d)(3)(i); *Matter of J-Y-C-*, 24 I&N Dec. 260 (BIA 2007).

Specifically, we agree with the Immigration Judge's determination that the respondent could avoid future persecution by relocating to another part of Pakistan, and under the circumstances, it

A208-925-863

would be reasonable to expect him to do so (IJ at 9-14). See 8 C.F.R. §§ 1208.13(b)(1), 1208.13(b)(3); *Matter of M-Z-M-R-*, 26 I&N Dec. at 28; *Matter of D-I-M-*, 24 I&N Dec. at 448; see also *INS v. Ventura*, 537 U.S. 12, 18 (2002) (an individual who can relocate safely within his home country ordinarily cannot qualify for asylum). The respondent's general assertion that he could not safely relocate is not supported by the objective evidence in the record. As discussed by the Immigration Judge, the evidence in the record indicates that it is reasonable for the respondent to relocate within Pakistan (IJ at 5-7). Specifically, as noted by the Immigration Judge, the respondent had problems with the Taliban due to his family operating a business in the Federally Administered Tribal Area (FATA), where the Taliban is active. However, after the respondent left Pakistan his family closed the business and have relocated out of the FATA. Accordingly, the respondent would not return to FATA to run the business (IJ at 12; Tr. at 28-31, 44-50). Moreover, the Immigration Judge considered that the respondent relocated to Islamabad before he left for the United States. Although he received threatening telephone calls, the respondent had the same telephone number and had not attempted to change it. The Immigration Judge properly noted that while the respondent received threats while in Islamabad, he did not receive threats in person or to where he lived; which indicates that the Taliban did not know where the respondent was (IJ at 6, 12-13; Tr. at 42-52). In addition, the Immigration Judge properly noted that the respondent has ten siblings who live in different areas who could help him get situated, and that he is young and college-educated so that he has the ability to relocate to a place where he can find employment and live safely (IJ at 13). Furthermore, the Immigration Judge thoroughly discussed the current country conditions in Pakistan, noting that the evidence in the record does not support the respondent's claim that he could not relocate in Pakistan. The respondent has not shown he would be unable to relocate in Pakistan to avoid the individual he fears encountering. Thus, given the Immigration Judge's findings of fact, we agree that the DHS carried its burden of rebutting the presumption of a well-founded fear of future persecution.

Accordingly, we affirm the Immigration Judge's denial of asylum. As the respondent did not establish eligibility for asylum, it necessarily follows that he has not met the higher burden of proof for withholding of removal under section 241(b)(3) of the Act (IJ at 14). See *Del Carmen Amaya-De Sicaran v. Barr*, 979 F.3d 210, 218 (4th Cir. 2020).

We also agree with the Immigration Judge's determination that the respondent did not meet his burden of proof for protection under the CAT (IJ at 14-15). See *Mulyani v. Holder*, 771 F.3d at 190, 200 (4th Cir 2014). In order to establish eligibility for protection under the CAT, an applicant must show that it is more likely than not that she would be tortured if removed to her home country. 8 C.F.R. § 1208.16(c)(2). Torture is an extreme form of cruel and inhuman treatment. 8 C.F.R. § 1208.18(a)(2). Torture is defined as any act by which severe pain and suffering is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. 8 C.F.R. § 1208.18(a)(1). No clear error exists in the Immigration Judge's findings that it was not shown that it is more likely than not that the government of Pakistan or a person acting in an official capacity will torture the respondent or acquiesce to his torture, and nothing the respondent has submitted on appeal, establishes that such torture is more likely than not to occur.

For the aforementioned reasons, the following order will be entered.

A208-925-863

ORDER: The respondent's appeal is dismissed.