

Falls Church, Virginia 22041

File: A79 610 344 - San Francisco, CA

Date:

FEB 27 2008

In re: KULWANT SINGH

IN ASYLUM PROCEEDINGS

APPEAL

ON BEHALF OF APPLICANT: Tom Youngjohn, Esquire

ON BEHALF OF DHS: Cara D. Cutler
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

ORDER:

PER CURIAM. This case was previously before us on June 9, 2006, when we dismissed the applicant's appeal of the Immigration Judge's June 2, 2005, decision that denied his application for asylum and withholding of removal under sections 208 and 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158, 1231(b)(3), and protection under the Convention Against Torture, 8 C.F.R. § 1208.16(c). The applicant, a native and citizen of India, petitioned to the United States Court of Appeals for the Ninth Circuit to review our decision. The Ninth Circuit granted the unopposed motion from the Department of Homeland Security (DHS) to remand the case to this Board. The record will be remanded to the Immigration Judge.

The Ninth Circuit remanded the record to the Board (1) to address whether the applicant suffered past persecution or has a well-founded fear of future persecution on account of his membership in a particular social group, and (2) to clarify what standard of review applies to the Immigration Judge's conclusions that the Indian police were not motivated on account of the applicant's imputed political opinion or that the applicant had not established mixed motive. The applicant's brief defines the purported particular social group as "young, innocent male Sikhs who have been mistakenly accused by Indian police as supporting Sikh militants, and who are then targeted for investigation by Indian police for the rest of their lives," and cites *Sanchez-Trujillo v. INS*, 801 F.2d 1571 (9th Cir. 1986). We find that a remand is required because the Immigration Judge has not had the opportunity to assess the applicant's eligibility for relief based on this claim or to consider developments in the relevant case law. See generally *Arteaga v. Mukasey*, 511 F.3d 940 (9th Cir. 2007); *Matter of A-M-E- & J-G-U-*, 24 I&N Dec. 69 (BIA 2007). Accordingly, the record is remanded to the Immigration Judge for further proceedings and for the issuance of a new decision.



FOR THE BOARD