

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 04-2409

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ALEKSANDAR IGNATOV,

Petitioner

v.

ALBERTO GONZALES\*, Attorney General  
of the United States,

Respondent

(\*Substituted pursuant to Federal Rule of Appellate Procedure 43(c)(2))

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ON PETITION FOR REVIEW OF ORDER OF THE  
BOARD OF IMMIGRATION APPEALS  
(No. A79-042-836)

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Argued July 12, 2005

Before: ALITO, BECKER, and GREENBERG, Circuit Judges

(Filed: September 30, 2005)

Melinda Basaran (Argued)  
1061 Main Street  
Paterson, New Jersey 07503

Counsel for Petitioner

Norah A. Schwarz (Argued)  
Mary Jane Candaux  
Anh-Thu P. Mai  
Thankful T. Vanderstar  
Linda S. Wernery  
Office of Immigration Litigation  
Civil Division, U.S. Dept. of Justice  
P.O. Box 878, Ben Franklin Station  
Washington, D.C. 20044

Counsel for Respondent

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OPINION

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PER CURIAM:

This is a petition for review of a decision of the Board of Immigration Appeals (BIA), which affirmed without opinion a decision of an Immigration Judge (IJ). The IJ, among other things, denied the petitioner's requests for withholding of removal and asylum.

The principal issue presented in this case is whether the record contains sufficient evidence to support the IJ's finding that the petitioner did not prove that he has a well founded fear that he would be persecuted if returned to his native country of Macedonia. We reject this argument and hold that the IJ's factual findings cannot be disturbed under the very limited standard of review set out in § 242(b)(4)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(4)(B) (requiring that a factual finding be sustained unless "any reasonable adjudicator would be compelled to conclude to the contrary").

The petitioner in this case was an officer with the Macedonia National Police Force. He signed an agreement to remain with the Force for eight years. During that time, a substantial number of Albanians began to enter Macedonia, and there were clashes between the Albanians and members of the Force. The petitioner claims that he received reports of abuses by the Force and that he came to fear that, if he remained with the Force, he would be compelled to participate in such activities. He therefore fled the country.

Petitioner's argument is that, if returned to Macedonia, he would be persecuted because of his political opinion, i.e., his view that the Macedonian police should not engage in abusive acts directed at the Albanians who entered the country. In order to establish that he is eligible for asylum, the petitioner was obligated to show (a) that the Macedonian police were committing improper acts; (b) that they were ordered to do so by superiors; and (c) that officers who refused to comply would be subjected to adverse consequences severe enough to rise to the level of persecution within the meaning of the asylum statute. For present purposes, we assume that the administrative record is adequate to satisfy prong (a) set out above, i.e., that members of the Macedonian Police Force engaged in widespread misconduct directed against the entering Albanians. We likewise assume that the evidence is adequate to satisfy prong (b). After testifying that he had received information about abuses "from couple of close friends who were my roommates at the police academy," the petitioner added: "They were forced to do that.

That was the order to work.” A.R. 45. However, even if the evidence in the administrative record was sufficient to compel a reasonable fact finder to conclude that the prongs (a) and (b) were satisfied, the petitioner’s argument founders because there is plainly insufficient evidence to compel such a conclusion regarding prong (c).

Our review of the administrative record has not disclosed any direct evidence to support such a finding, and at oral argument, petitioner’s counsel was unable to point to any such evidence. We recognize that subordinates in a paramilitary organization are not generally allowed to disobey orders without suffering adverse consequences, but we do not believe that a reasonable fact finder would be compelled to conclude that persecution necessarily would have followed under the circumstances present here. A reasonable fact finder, taking into account the illegality of the orders in question and the need for the adverse consequences to rise to the level of persecution, could, in our judgment, reasonably reject such a finding. For these reasons, we hold that the record is adequate to support the IJ’s rulings regarding eligibility for asylum and, a fortiori, withholding of removal. We have considered all of the petitioner’s arguments, and see no basis for granting the petition.