

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-1667

ELENA OSTRO,
Petitioner

v.

ALBERTO GONZALES,
Attorney General of the United States

ON PETITION FOR REVIEW FROM AN ORDER OF
THE BOARD OF IMMIGRATION APPEALS
(Board No. A74-191-496)

Submitted Under Third Circuit L.A.R. 34.1(a)
May 4, 2005

Before: McKEE, VAN ANTWERPEN, and WEIS, Circuit Judges.
(Filed: May 17, 2005)

OPINION

WEIS, Circuit Judge.

Petitioner is a native and citizen of Russia who entered the United States in 1994 as a non-immigrant visitor for business. She requested asylum, withholding of removal and relief under the Convention Against Torture. After a hearing, an IJ granted

asylum and withholding of removal, but did not rule on whether relief was due under the Convention.

On appeal, the Board of Immigration Appeals sustained the government's appeal and held that the IJ had erred in granting relief to petitioner.

Because this opinion is not precedential and the parties are well aware of the facts, we will only summarize them briefly.

Petitioner became involved in an altercation with her paramour and fatally stabbed him. Initial prosecution of the homicide resulted in favorable rulings for petitioner, but a charge akin to voluntary manslaughter remains pending. The Russian authorities have issued a warrant for the petitioner's arrest.

Petitioner contends that the father of her deceased's paramour has been pressuring the Russian authorities to keep the criminal process alive. In addition, she alleges that he has threatened her and her daughter and that he physically attacked her in public. She also alleges that the police had coerced a witness to recant his previous, favorable testimony.

The BIA concluded that the criminal proceeding was a continuing one and had not been dismissed and later reinstated as the IJ had believed. Moreover, the father's alleged desire for revenge is not a persecution on account of a protected ground. It appears that petitioner has been subjected to a legitimate criminal investigation and prosecution. In addition, the BIA pointed out that, in coming to the United States, the

petitioner had violated her original restraining measures and had become a fugitive from justice.

Our review of the record persuades us that the BIA's decision to deny asylum was supported by substantial evidence. In addition, we do not find record support for a finding that petitioner is entitled to relief under the Convention Against Torture.

Finding ourselves in agreement with the BIA, accordingly, we will deny the petition for review.