NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-5346

SEJID SMRIKO,

Petitioner

v.

ATTORNEY GENERAL OF THE UNITED STATES,

Respondent

On Petition for Review of an Order
of the Board of Immigration Appeals
(BIA No. A71-685-464)
Immigration Judge: Nicole Kim

Submitted pursuant to Third Circuit LAR 34.1(a)
March 15, 2007

Before: FUENTES, GREENBERG, and LOURIE,* Circuit Judges.

(Filed: March 30, 2007)

OPINION OF THE COURT

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*The Honorable Alan D. Lourie, Circuit Judge for the United States Court of Appeals for the Federal Circuit, sitting by designation.

FUENTES, Circuit Judge.

Sejid Smriko petitions for review of his order of removal. Because the legal issue presented on appeal was resolved by a prior panel of this Court, we will deny the petition.

I.

Sejid Smriko is a native and citizen of Bosnia-Hergezovina who was admitted to the United States in 1994 as a refugee. Smriko was later granted status as a lawful permanent resident ("LPR"), but the Attorney General never formally terminated Smriko's refugee status. Between 1996 and 1999, Smriko was convicted three times of retail theft offenses, and the government initiated removal proceedings against him. Before an Immigration Judge ("IJ"), Smriko challenged the initiation of removal proceedings, asserting that his status as refugee, which had never been revoked, insulated him from removal. The IJ rejected this argument and ordered Smriko removed; the Board of Immigration Appeals ("BIA") affirmed without opinion.

In Smriko's first appeal to this Court, we concluded that Smriko had presented the BIA with "novel and substantial" legal issues of statutory interpretation that the BIA should have addressed. See Smriko v. Ashcroft, 387 F.3d 279, 281 (3d Cir. 2004). Because it had not, but had instead employed its streamlining procedures, we remanded for the BIA to interpret the immigration statutes relevant to Smriko's contention. On remand, the BIA issued an opinion concluding that a refugee who has adjusted status to LPR can be placed in removal proceedings, even though his refugee status was never

formally terminated. See In re Sejid Smriko, 23 I & N Dec. 836 (BIA 2005).

In this appeal, Smriko challenges the BIA's decision in Smriko, claiming it to be an unreasonable interpretation of the relevant immigration statutes. Since briefs were filed, however, this Court decided Romanishyn v. Attorney General, 455 F.3d 175 (3d Cir. 2006), which resolved the issue presented here. In Romanishyn, we ruled that Smriko was a "correct and reasonable" interpretation by the BIA, and is thereby entitled to deference by this Court. 455 F.3d at 185. Smriko's attorney laudably brought Romanishyn to the attention of the panel, and recognized that it binds our resolution of this case. See Third Circuit Internal Operating Procedure 9.1 ("It is the tradition of this court that the holding of a panel in a precedential opinion is binding on subsequent panels.").

Accordingly, Smirko's petition for review of the BIA's decision must be denied.