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Board of Immigration Appeals
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Name: Y [REDACTED], T [REDACTED]
Riders: [REDACTED]-297

A [REDACTED]-421

Date of this notice: 02/12/2002

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

Very Truly Yours,

Lori Scialabba
Acting Chairman

Enclosure

Panel Members:

HOLMES, DAVID B.
HURWITZ, GERALD S.
PAULEY, ROGER

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In re: T [REDACTED] Y [REDACTED]
A [REDACTED] Y [REDACTED]

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Thomas Hutchins, Esquire

CHARGE:

Order: Sec. 241(a)(1)(B), I&N Act [8 U.S.C. § 1251(a)(1)(B)] -
In the United States in violation of law (both respondents)

APPLICATION: Asylum; withholding of deportation

In a decision dated June 3, 1997, the Immigration Judge found the respondents deportable as charged, denied their requests for asylum and withholding of deportation, and granted them voluntary departure in lieu of deportation. The respondents appealed, arguing that the Immigration Judge erred in failing to grant their requests for asylum and withholding of deportation. The appeal will be sustained.

In support of their asylum claim, the male respondent testified that he joined the All Amharic People's Organization (AAPO) and the Student's Association in Ethiopia in 1993 (Tr. at 11, 14, 22, 25). Shortly after joining the organization, the respondent testified, he was beaten by police at a student demonstration in January of 1993 (15, 17, 26). The respondent admits that no permit was issued for the demonstration, but the respondent also notes that attempts to obtain a permit would have been futile (Tr. at 24). Thereafter, the male respondent heard his name on the radio as a suspected organizer of the demonstration; the doctor who attended to his wounds also indicated that the Ethiopian government might be searching for him (Tr. at 27). The respondent was also expelled from school, and so rather than returning home he stayed at his grandparents' home until his departure from Ethiopia. He also testified that his parents received a summons from the police department, ordering him to their offices for questioning about the January 3, 1993, demonstration (Tr. at 18-19, 28, 32). The respondent also proffered a copy of this summons for the record (Exh. 5). The respondent also testified that he has spoken with his parents recently, and that government officials are still searching for him (Tr. at 19). He arrived in the United States on August 12, 1993 (Tr. at 30).

The female respondent testified that she and her co-respondent are siblings (Tr. at 34), that she is also a member of the Student Association, and that she also participated in the January 3, 1997, demonstration (Tr. at 34-35, 36). Like her brother, the female respondent was severely beaten at the demonstration; she testified that she has suffered some hearing loss due to her injuries (Tr. at 36, 39). She received treatment for 10 days at a hospital, and then left Ethiopia for the United States for further medical treatment (Tr. at 38, 42). She has proffered medical evidence indicating that she has had treatment on her ear in the United States (Exh. 5). She arrived in the United States on February 9, 1993 (Tr. at 44). The respondents argue that they suffered past persecution and continue to maintain a well-founded fear of persecution in Ethiopia on account of their membership in (group).

Initially, we note that the Immigration Judge did not make an express finding regarding the credibility of the respondents' testimony, but stated that he found that the respondents "have not asserted a plausible account of events that would cause the Court to conclude there would be ... interest" in them by the Ethiopian government (I.J. Dec. at 6-7). In support of this conclusion, the Immigration Judge indicated that neither respondent was active enough with the AAPO to draw attention to his or her actions (I.J. Dec. at 7). Inasmuch as the Immigration Judge's comments can be construed as an adverse credibility finding, we find insufficient support for this conclusion (I.J. Dec. at 6, 7). *See Matter of A-S-*, 21 I&N Dec. 1106 (BIA 1998). The Immigration Judge has noted no other omissions or contradictions in the respondents' testimony; thus, we will accept their testimony as true. *Id.*; *see also Huaman-Cornelio v. BIA*, 979 F.2d 995 (4th Cir., 1992) (the BIA clearly has the power to review an Immigration Judge's findings de novo, to make its own findings even as to matters of credibility, and to assess the legal sufficiency of the evidence).

The Immigration Judge ultimately found that the respondents had failed to demonstrate eligibility either for asylum or withholding of deportation, both because they did not demonstrate that their past treatment by the Ethiopian government rises to the level of persecution (I.J. Dec. at 6), and because their testimony regarding their well-founded fear of persecution lacked detail (I.J. Dec. at 7, 8). We disagree, and find that the respondents have demonstrated, with adequate evidence, a well-founded fear of returning to Ethiopia on account of their ethnicity and imputed and real political opinion. *See Matter of S-M-J-*, 21 I&N Dec. 722 (BIA 1997) (discussing the sufficiency and necessity of corroborative evidence); *Matter of H-*, 21 I&N Dec. 337 (BIA 1996); *Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996).

Both of the respondents testified credibly regarding the beatings they sustained on January 3, 1993; moreover, the male respondent provided both testimony and documentary evidence to support the government's continued interest in him due to their perception of him as a political activist (Exh. 5). The female respondent has provided evidence that her injuries required medical treatment in both the United States and Ethiopia (Exh. 5), and we find that this past treatment by the Ethiopian government, while not directly targeted at the respondents themselves, creates an understandable fear of returning to Ethiopia at this time. That the male respondent was subsequently targeted by the Ethiopian government enhances the well-founded nature of this fear, and illustrates that its basis lies in the respondents' real and imputed political opinion. Given the similar past experiences suffered

by the male and female respondent and their dual membership in the Students Association, we find that the female respondent has also established a well-founded fear of persecution. *See generally Arriaga-Barrientos v. INS*, 925 F.2d 1177 (9th Cir. 1991). Lastly, as the respondents note on appeal, the documentary evidence of record supports not only the mistreatment of Amharas in general, but also specifically states that "(i)n an incident in January 1993, at least one student was killed in a demonstration reportedly organized by the All-Amhara People's Organization". *See Profile Series, Ethiopia, The Status of Amharas Since May 1991* (January 1993; INS Resource Information Center). (Exh. 5).

Where an asylum applicant establishes that many members of his or her group are targeted for persecution, less of an individualized showing is required to qualify for asylum based on past persecution, not more. *See Chand v. INS*, 222 F.3d 1066 (9th Cir. 2000). While a close question, in the respondents' case, we find that their membership in the Amhara ethnic group, their political memberships, and the specific incidents they suffered in Ethiopia, provide adequate bases to support a well-founded fear of persecution on account of their actual or imputed political opinion. *INS v. Elias-Zacarias*, 502 U.S. 478 (1992); *Matter of S-P-*, 21 I&N Dec. 486 (BIA 1996); *Matter of H-*, *supra*.

Thus, we conclude that the respondents have carried their burden of demonstrating a well-founded fear of persecution, and the record reflects no adequate basis for denying the respondents asylum in the exercise of discretion. *See Matter of Pula*, 19 I&N Dec. 467 (BIA 1987); 8 C.F.R. § 208.13(b)(2)(i)(B). Because we have granted asylum, we need not reach the other issues on appeal.

Accordingly, the following orders will be entered.

ORDER: The appeal from the denial of the application for asylum is sustained and the decision of the Immigration Judge is reversed insofar as it denies the application for asylum.

FURTHER ORDER: The respondents are granted asylum pursuant to section 208 of the Act, as amended, and the deportation proceedings are terminated.



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