

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

October 31, 2018

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

MEHRDAD NOORI HOSSAIN ABADI,

Petitioner,

v.

JEFFERSON B. SESSIONS, III,
United States Attorney General,

Respondent.

No. 18-9509
(Petition for Review)

ORDER ON REHEARING*

Before **TYMKOVICH**, Chief Judge, **McKAY** and **MATHESON**, Circuit Judges.

Mr. Mehrdad Noori Hossain Abadi (Mr. Noori), a native and citizen of Iran, has filed a petition for panel rehearing. In an order and judgment filed September 11, 2018, we denied his petition for review of a decision of the Board of Immigration Appeals (BIA) denying his motion to reopen his removal proceedings. We concluded that Mr. Noori had not demonstrated that there has been a significant increase in the persecution of converts from Islam to Christianity in Iran since the time of his removal proceedings in the 1990s.

* This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

In his petition for rehearing, Mr. Noori observes that one day before our decision was filed in this case, the BIA granted a motion to reopen in another case involving an Iranian citizen who had received a final order of removal in 2000 and who, like Mr. Noori, had converted from Islam to Christianity in 2017. *See In re Mohajer-Soltani*, No. Axxx-xx9-081 (BIA Sept. 10, 2018). Mr. Noori claims that although the evidence Mr. Mohajer-Soltani submitted to show an increase in the persecution of Christian converts in Iran concerns a slightly later period than the evidence Mr. Noori submitted, it is similar in “content, context and quantity.” Pet. for Reh’g at 12. He therefore posits that the BIA has acted in an unacceptably inconsistent manner.

Having reviewed the evidence submitted in both cases, we grant the petition for panel rehearing, vacate our order and judgment, grant the petition for review, vacate the BIA’s order denying Mr. Noori’s motion to reopen, and remand this matter to the BIA with instructions to reconsider the motion to reopen in light of its decision in *In re Mohajer-Soltani*. If on reconsideration the BIA denies Mr. Noori’s motion to reopen, the BIA should explain how it has distinguished the merits of Mr. Noori’s motion to reopen from the merits of Mr. Mohajer-Soltani’s motion to reopen. This Order on Rehearing will serve as this court’s mandate.

Entered for the Court

Monroe G. McKay
Circuit Judge