

DEC 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LILIT GORGINYAN; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 05-70278

Agency Nos. A095-410-720
A095-410-721

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and TROTT, Circuit Judges.

Lilit Gorginyan and her daughter, natives and citizens of Armenia, petition for review of a Board of Immigration Appeals’ (“BIA”) order dismissing their appeal from an immigration judge’s decision denying their application for asylum,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

withholding of removal, and relief under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we grant the petition for review and remand the case.

The BIA's order in this case contains a clear factual error that compromises our review of the decision. In its discussion of petitioner's past persecution, the decision includes consideration of "the destruction of her store in May 1998 and the other threatening incidents." These facts are not part of petitioner's case. Because it is not clear what facts the BIA considered when denying relief, we remand for the BIA to clarify its opinion.

On remand, the government is advised to insure the BIA has a complete copy of the administrative record. The copies received by the court are missing pages AR 255-277.

Based on our conclusion, we decline to reach the remainder of petitioner's contentions.

PETITION FOR REVIEW GRANTED; REMANDED.