

MAY 07 2009

*Gevorkova v. Holder*, No. 04-75987MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

Pregerson, J., dissenting:

I dissent. Larisa Gevorkova and her husband, Sergo Gevorkov, are Georgian nationals of mixed ethnicity. Because of their mixed ethnicity and the ongoing strife and hostility between Georgia and Abkhazia, the Gevorkovs faced significant persecution. They were not safe in the Georgian city of Tbilisi because of Mrs. Gevorkov's Abkhazian ethnicity, and they were not safe in Abkhazian areas such as Sokhumi or in Russia because of Mr. Gevorkov's Georgian and Armenian ethnicity. Accordingly, I believe that, if forced to return to Georgia, there is at least a ten percent chance the Gevorkovs will face future persecution because of their mixed ethnicity. *See Al-Harbi v. INS*, 242 F.3d 882, 888 (9th Cir. 2001) (“[E]ven a ten percent chance of persecution may establish a well-founded fear.”). I would grant the petition for review and reverse the Board of Immigration Appeals and Immigration Judge's determination that the Gevorkovs are not eligible for asylum.