

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 30 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

HARPREET KAUR,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70025

Agency No. A070-810-299

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Harpreet Kaur, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a motion to reopen, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we grant the petition for review.

The BIA abused its discretion in denying Kaur’s motion to reopen where she provided sufficient evidence that circumstances have changed in India such that she now has a “reasonable likelihood” of demonstrating a well-founded fear of persecution. *See Malty v. Ashcroft*, 381 F.3d 942, 947-48 (9th Cir. 2004) (concluding that circumstances had changed where petitioner submitted new evidence of violence against Egyptian Coptic Christians generally and specific acts of violence against his family in particular). Moreover, because Kaur established changed circumstances, the BIA abused its discretion in finding the motion time-barred. *See* 8 U.S.C. § 1229a(c)(7)(C)(ii); *Malty*, 381 F.3d at 945-46.

Accordingly, we grant the petition and remand to the BIA with instructions to reopen. *See id.* at 948.

PETITION FOR REVIEW GRANTED.