

JUL 20 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BELLA ABRAMOVA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-71771

Agency No. A097-364-487

MEMORANDUM*

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

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit judges.

Bella Abramova, a native and citizen of Armenia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her asylum and withholding of removal

* 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).

application. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand.

Because the BIA deemed Abramova's testimony credible, it erred in requiring her to corroborate her date of entry in U.S. and in upholding the IJ's pretermission of her asylum application. *See Ladha v. INS*, 215 F.3d 889, 899 (9th Cir. 2000) (holding no corroborating evidence required from asylum applicants who have testified credibly). Accordingly, we remand to the agency to determine whether Abramova is eligible for asylum in the first instance. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

As to withholding of removal, the BIA erred in failing to address Abramova's contention that the IJ erred in concluding her two detentions and beatings did not rise to the level of past persecution. *See Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) ("the BIA [is] not free to ignore arguments raised by a petitioner."). Were Abramova to establish past persecution, she would be entitled to the presumption of a well-founded fear. *See Mousa v. Mukasey*, 530 F.3d 1025, 1030 (9th Cir. 2008). We therefore remand to the BIA to consider in the first instance whether Abramova established withholding of removal. *See Ventura*, 537 U.S. at 16-18.

PETITION FOR REVIEW GRANTED; REMANDED.