

FILED

UNITED STATES COURT OF APPEALS

APR 27 2012

FOR THE NINTH CIRCUIT

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

BYONG SEOL SONG, a.k.a. Byoung
Song, a.k.a. Byoung Seoul Song and MI K
SONG,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-73299

Agency Nos. A071-790-403
A077-166-787

ORDER

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

On March 30, 2012, the Board of Immigration Appeals reopened the proceedings in this case as to Mi K Song. Because there is no longer a final order of removal for Ms. Song, we withdraw the memorandum disposition filed on October 6, 2011. A replacement memorandum disposition will be filed concurrently with this order.

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Song, a.k.a. Byoung Seoul Song; MI K
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v.

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Respondent.

No. 06-73299

Agency Nos. A071-790-403
A077-166-787

MEMORANDUM*

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

Submitted September 27, 2011**

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

Byong Seol Song and Mi K Song, natives and citizens of South Korea,
petition for review of the Board of Immigration Appeals' ("BIA") order dismissing
their appeal from an immigration judge's removal order. Our jurisdiction is

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

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

governed by 8 U.S.C. § 1252. We review for substantial evidence the agency's findings of fact. *Kim v. Holder*, 603 F.3d 1100, 1102 (9th Cir. 2010). We dismiss the petition for review as to Mi K Song, Agency No. A077-166-787. We deny in part and dismiss in part the petition for review as to Byong Seol Song, Agency No. A071-790-403.

On March 30, 2012, the BIA reopened the proceedings in this case as to Mi K Song. We therefore dismiss the petition for review as to Mi K Song because there is no longer a final order for her removal. *See* 8 U.S.C. § 1252(a)(1).

As to Byong Seol Song, substantial evidence supports the agency's finding of removability by clear and convincing evidence. *See id.* at 1103.

Byong Seol Song lacks standing to assert his equal protection contention because he “do[es] not belong to the class of returning [Lawful Permanent Residents] who are allegedly similarly situated to applicants for admission.” *Id.* at 1104.

Byong Seol Song's remaining contention is not persuasive.

As to Mi K Song, Agency No. A077-166-787: PETITION FOR REVIEW DISMISSED.

As to Byong Seol Song, Agency No. A071-790-403: PETITION FOR REVIEW DENIED in part; DISMISSED in part.