NOT FOR PUBLICATION

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAGROOP KAUR; AKASH SINGH; J. S., Petitioners, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-7096 Agency Nos. A240-419-678 A240-419-677 A240-419-679 MEMORANDUM[*]

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

Submitted August 13, 2025[**]
Seattle, Washington

Before: HAWKINS, McKEOWN, and WARDLAW, Circuit Judges.

Akash Deep Singh ("Singh"), his wife Jagroop Kaur, and their minor child J. S. (collectively "Petitioners"), natives and citizens of India, petition for review of a decision of the Board of Immigration Appeals ("BIA") dismissing their appeal from an order of an Immigration Judge ("IJ") denying their applications for

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

asylum, withholding of removal, and protection under the Convention Against Torture ("CAT").[1] "Where, as here, the BIA agrees with the IJ decision and also adds its own reasoning, we review the decision of the BIA and those parts of the IJ's decision upon which it relies." *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1027–28 (9th Cir. 2019) (citation omitted). "We review the BIA's determinations of purely legal questions de novo, and factual findings for substantial evidence." *Singh v. Whitaker*, 914 F.3d 654, 658 (9th Cir. 2019). Under the substantial evidence standard, "we must uphold the agency determination unless the evidence compels a contrary conclusion." *Duran-Rodriguez*, 918 F.3d at 1028. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand for further proceedings.

The BIA's conclusion that Singh was ineligible for asylum and withholding of removal because he could safely and reasonably relocate within India is not supported by substantial evidence. The IJ found that Singh experienced past persecution in India, so the Department of Homeland Security ("DHS") had the burden to prove, by a preponderance of the evidence, that Singh could "avoid future persecution by relocating to another part of [his] country of nationality."[2] 8

[1] Petitioners do not challenge the denial of their applications for protection under CAT.

[2] Contrary to Petitioners' argument in their petition for review, DHS was not required to produce evidence to meet its burden but could instead rely on

C.F.R. § 1208.13(b)(1)(i)(B); *see Whitaker*, 914 F.3d at 659 (noting that the proposed relocation must be both safe and reasonable). The IJ determined that DHS met its burden, and the BIA affirmed, stating that "the respondent could safely and reasonably relocate within India, as he had previously done so" in Punjab.

However, Singh's testimony, which the IJ deemed credible, compels a contrary conclusion. Singh testified that Petitioners fled their home state of Haryana, India after multiple instances of being attacked, threatened, or detained because of Singh's support of the Shiromani Akali Dal (Amritsar) political party. Petitioners temporarily relocated to Singh's sister's home in Punjab. While there, Singh stopped participating in political activities, stayed in his sister's home, and typically only went outside to go to a nearby place of worship. Despite these efforts, Singh's wife was contacted directly by an unknown person, and Singh's father in Haryana received threatening calls asking for Singh's whereabouts.

The BIA erred in its relocation analysis because it "failed to consider whether he would be substantially safer" in Punjab "if he were to continue expressing his support" for the Shiromani Akali Dal (Amritsar) Party. *Whitaker*, 914 F.3d at 660. Contrary to the government's contentions, the agency was on

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Petitioners' evidence. *See Iraheta-Martinez v. Garland*, 12 F.4th 942, 956 (9th Cir. 2021) ("[T]here is no reason why DHS cannot use evidence introduced by the noncitizen to rebut the presumption [of future persecution].").

notice that Singh had stopped participating in political activities while living in Punjab. Singh testified that he "stayed in the home" and "did not go inside the town," and his counsel stated that he "was not participating in any Mann Party activities" at the time. The agency's failure to consider Singh's future political activity constituted error even if Singh did not specifically state his intent to continue advocating for his preferred political party, as that intent was plainly implied in Singh's testimony and his counsel's argument. Singh testified to his ongoing support of his preferred political party, and his submissions to the agency described his "continue[d] fear [of] persecution based on his political association."

Relocation is not "reasonable" if it requires the noncitizen to cease their political activities. *See id.* at 660 (holding that the BIA "erred by unlawfully assuming that [the noncitizen] could silence his political activity to avoid harm"); *Singh v. Garland*, 118 F.4th 1150, 1166–67 (9th Cir. 2024) (noting that the noncitizen's "uneventful trip to New Delhi" to reach the airport and flee the country had "no bearing on whether he faces a risk of persecution if he continues proselytizing for the Mann Party in another region of the country" because he did not engage in political activities while in New Delhi). Thus, the BIA's determination that Singh had safely and reasonably relocated to Punjab in the past, and that he could therefore do so again, is unsupported by substantial evidence. We remand for the agency to consider in the first instance whether Singh could

safely relocate to Punjab if he were to continue expressing his support for his preferred political party.

PETITION GRANTED; REMANDED.[3]

[3] Petitioners' Motion to Stay Removal (Dkt. 2) is denied as moot.