

United States of America

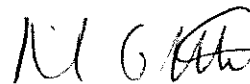
DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

April 22, 2002

CERTIFICATION

BY VIRTUE OF the authority vested in me by Title 8, Code of Federal Regulations, Part 103 a regulation issued by the Attorney General pursuant to Section 103 of the Immigration and Nationality Act,

I HEREBY CERTIFY that the annexed documents are originals, or copies thereof, from the records of the said Immigration and Naturalization Service, Department of Justice, relating to File No. A72 454 775, of which the Attorney General is the legal custodian by virtue of Section 103 of the Immigration and Nationality Act.



Richard Gottlieb
Officer in Charge
Charlotte, North Carolina



U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
26 Federal Plaza, Room 13-130
New York, N.Y. 10278

File No: 72 454 775

Date: DEC 14, 1993

In the Matter of
HAMMOUND, Mohammad Yousoff
aka HAMMAD (DOB 9/25/73)
Respondent/Applicant

IN DEPORTATION/EXCLUSION PROCEEDINGS

ON BEHALF OF RESPONDENT/APPLICANT,

Ms. Riefkohl Gomez

ON BEHALF OF SERVICE,

Ms. Lopez

MEMORANDUM OF ORAL DECISION

THIS MEMORANDUM IS A SUMMARY OF THE ORAL DECISION RENDERED AT NEW YORK, N.Y., NEW YORK. IF THE DECISION IS APPEALED, THE FULL TEXT OF THE DECISION AND ORDER WILL BE TRANSCRIBED AND PROVIDED TO THE PARTIES

The Respondent was ordered deported to _____ or _____
 The Respondent was granted/denied voluntary departure on or before _____ with an alternate order of deportation to _____

The Respondent was granted/denied Suspension of Deportation under Section 244(a) of the Act.

The Respondent was granted/denied Adjustment of Status.

The Respondent's adjustment of status was/not rescinded under Section 246 of the Act.

The Applicant has been ordered excluded and deported. Sec 212(a)(1)(A)(i)(I) only

The Applicant was admitted to the United States as a _____ until _____

The Applicant's request to withdraw the application for admission to the U.S. was granted, provided departure occurs not later than _____

The Applicant/Respondent was granted/denied Asylum/Withholding of Deportation under Section 208(a)/243(h) of the Act.

The Applicant/Respondent was granted/denied a waiver under Section _____ of the Act, and proceedings were terminated.

Requested relief pursuant to Section _____ of the Act was deemed to be abandoned because of failure to prosecute.

The proceedings were terminated.

The Service/Respondent/Applicant has reserved/waived appeal. If appeal has been reserved, appeal must be filed by DEC 27 1993

Other _____

Immigration Judge

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
New York, New York

File No.: A 72 454 775

May 11, 1993

In the Matter of

MOHAMMED YOUSEFF HAMMAD

Applicant

)
) IN EXCLUSION PROCEEDINGS
)
)

CHARGE:

- (1) I&N Act, Sections 212(a)(6)(C) - Attempt to enter by fraud.
- (2) I&N Act, Section 212(a)(7)(A)(ii) - Immigrant not in possession of a valid immigrant visa.
- (3) I&N Act, Section 212(a)(7)(B) - Non-immigrant, not in possession of a valid travel document.

APPLICATIONS:

- (1) I&N Act, Sections 208 - Asylum.
- (2) I&N Act, Section 243(h) - Withholding of deportation to Lebanon.

ON BEHALF OF APPLICANT:

Alvia Riefkohl, Esquire

ON BEHALF OF SERVICE:

Weni Lazar, Esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

The applicant is a 20-year-old unmarried male alien who is a native and citizen of Lebanon. He last arrived in the United States on or about June 6, 1992 and was not in possession of any valid document for admission to the United States. He has, through his attorney, conceded that he is excludable under Section 212(a)(7)(A)(ii) as an immigrant not in possession of a

valid immigrant visa. The charge of excludability under Section 212(a)(7)(B) is, therefore, inapplicable. There is no evidence which would sustain the charge of excludability under Section 212(a)(6)(C). Having conceded that he is excludable, the applicant has requested that he be granted asylum, pursuant to Section 208, and withholding of his deportation to Lebanon, pursuant to Section 243(h) of the Act.

On November 19, 1992, he filed a written application for asylum in the United States, see Exhibit 2. In that application and in the accompanying statement he claimed that he had been arrested on two occasions. The first was in 1989 when he was detained for 20 days by the SLA. He alleged that he was interrogated and beaten by them and, as a direct consequence, lost some hearing in this left ear. He alleged that he was detained because the SLA wanted him to act as a spy against the Syrian militia. He claimed that he opposed this. In January 1991, according to his statement, he was arrested a second time. On this occasion by the Syrian militia, known as Hezbollah. After he was arrested the second time, he was questioned about his family members and other alleged activities. He then decided to leave Lebanon.

The written application, together with supporting documentation outlining the general background conditions in Lebanon, were referred to the Department of State in accordance with 8 C.F.R. 208. They did respond on November 23rd, 1993,

providing us with additional material about the current situation in Lebanon. See Exhibit 3. That material outlines the history of the conflict in Lebanon and points out the recent peace initiatives as well as the continuing unsettled conditions and attacks between the Hezbollah and the Israeli South Lebanon Army. Notwithstanding the recent events including the continuing hostilities in South Lebanon, the Department of State concludes that "many observers believe that Lebanese of nearly all political factions have gone farther toward a resolution of the internal conflict than at any time since hostilities began in 1975." Of course, that is little consolation to those that have to live in the midst of a war and who are subjected to the varying political factions all of whom seek the assistance of the civilian population. On the other hand, the unsettled conditions of a war do not necessarily provide a basis for a finding of asylum or withholding of deportation unless the applicant is able to demonstrate that there is a well-founded or a clear probability of persecution on account of one of the five grounds within the Immigration & Nationality Act for which protection is afforded.

In seeking withholding of deportation, the applicant must show that if returned to Lebanon, his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion. This means he bears the burden of demonstrating a clear

probability of persecution on account of one of those grounds. Eligibility for asylum under Section 208 does not require a probable showing of persecution and he need only show that he is a refugee as defined by Section 101(a)(42)(A) of the Act. That definition includes a requirement that he show persecution in the past or a well-founded fear of future persecution, again on account of race, religion, nationality, membership in a particular social group or political opinion. The Board of Immigration Appeals has stated that an alien demonstrates a well-founded fear of persecution when he shows that a reasonable person in his circumstances would fear persecution. The Board has also stated that where evidence corroborative of the alien's claim is available, must be produced but that where there is no such corroborative evidence available, the alien's testimony may alone be sufficient where that testimony is sufficiently detailed and consistent as to provide a plausible and coherent account of the alien's claim.

In this case, there is no doubt but that the applicant has set an objective basis for a fear of harm. He has shown in his documentation, as well as in the opinion of the Department of State, that there are continuing hostilities between various factions in Lebanon and, notwithstanding the resolution, or attempts at resolution of these conflicts, there's no doubt but that there is an objective basis upon which to conclude that harm is likely or probable in Lebanon. On the other hand, after fully

considering this applicant's testimony, as well as the facts presented in his written application, I cannot conclude that he has demonstrated either a well-founded fear of persecution or a clear probability of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.

At the outset, I note that the applicant has not provided any evidence specifically corroborative of his claim. Unfortunately, his testimony and the facts presented in his written application are internally inconsistent and do not hang together so as to provide a plausible and coherent account of the basis upon which he claims eligibility. He testified that he was detained two times in 1989. In his written application he claims that the first detention occurred in 1989 and that the second occurred in 1992, shortly before and as the precipitating factor for his departure from Lebanon. It is impossible to tell from his testimony and the facts in his written application, when these events occurred and why they were a reason for him to have left Lebanon. Particularly, if the second detention which he claims was by the Hezbollah was a precipitating factor since he was released by the Hezbollah and was not mistreated by them but rather they were seeking his assistance as was apparently the SLA, the Israeli supported army in Lebanon, who was seeking to conscript him. So, I have a written declaration by the applicant in which he contends there were two detentions, once, and first

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by the SLA in 1989 and a second in 1992.

In his testimony, he claims that the events occurred in 1989 and were separated by two or three months and that he returned to school after the second detention. It would appear that both of these groups are seeking the assistance of the applicant. The SLA, in fact, apparently encouraged the applicant to the extent that he assisted them by placing notices on a board at school without his name. The second group, the Hezbollah wanted him to join with them. He has claimed that he was afraid to join with one side or the other and believes that because of this his life would be in danger. He has testified that if returned to Lebanon, he believes that there is a danger of imprisonment or conscription and that he may be killed. It is clear that he was being conscripted because he has testified that a notice was published in the newspaper and that all those born in 1973 were told to report. It is not clear when this event occurred. He has stated that it was around the end of August of 1989 or sometime in September around his birthday in 1989. I don't know when it occurred and his testimony and his written statement are at odds as to when these events transpired. In any event, it would not seem that the conscription by one side or the other is the type of mistreatment as to provide a conclusion that there is a likelihood of persecution on account of his race, religion, nationality, membership in a particular social group or political opinion. See Elias-Zacharias vs. INS, 112 S.Ct. 812

(1992). This record does not support a conclusion that the applicant is likely to be persecuted or that there is a well-founded fear of persecution or a clear probability of persecution or that he was persecuted in the past, so as to support a finding that he is eligible either for asylum or withholding of deportation on account of persecution directed at him because of his race, religion, nationality, membership in a particular social group or political opinion.

This applicant, like many other citizens of Lebanon, is a victim of the widespread violation and conflict which has taken its toll on the civilian population since 1975. There are other measures perhaps available under temporary protected status but he is not eligible for asylum or withholding of deportation on this record and the following order will, therefore, be entered.

ORDER

IT IS ORDERED that the applicant be excluded and deported from the United States under Section 212(a)(7)(A)(ii). ★

~~IT IS FURTHER ORDERED that the applications for asylum and withholding of deportation be denied.~~

PATRICIA ROHAN
Immigration Judge

