

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 26 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

KATSIARYNA CHYZHYK,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72023

Agency No. A98-516-465

MEMORANDUM*

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

Submitted February 11, 2008**
San Francisco, California

Before: D.W. NELSON, KLEINFELD, and HAWKINS, Circuit Judges.

Admission of Exhibits 10A and 12 was not violative of 8 C.F.R. § 1240.7.

The documents were probative and their admission fundamentally fair, so reliance

* 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).

on them was appropriate under Espinoza v. INS, 45 F.3d 308, 310 (9th Cir. 1995). Nevertheless, the deficiencies relied upon by the BIA and IJ regarding Chyzhyk's testimony, such as whether the location was Yanka Kupala Park or Independence Square, who spoke at the rally, and the extent of her participation in the Young Social Democrats, are not cogent enough to constitute a valid ground upon which to base a finding that she was not credible. See Stoyanov v. INS, 172 F.3d 731, 736 (9th Cir. 1999). Further, these minor inconsistencies do not relate to the basis of Chyzhyk's "alleged fear of persecution" nor do they "reveal anything about [her] fear for [her] safety." Mendoza Manimbao v. Ashcroft, 329 F.3d 655, 660 (9th Cir. 2003). Accordingly, the petition is GRANTED and we REMAND so that the BIA and the IJ may reassess credibility on whatever other grounds may appear to them to be established on the record or, if credibility is established, to proceed as appropriate with the application.

GRANTED and REMANDED.