

APR 16 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MEHDI KAVOUSI,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-74634

Agency No. A96-072-185

MEMORANDUM*

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

Argued and Submitted April 10, 2008
Pasadena, California

Before: HALL, T.G. NELSON, and SILVERMAN, Circuit Judges.

Medhi Kavousi, a native and citizen of Iran, petitions for review of the Board of Immigration's (BIA) decision affirming the Immigration Judge's (IJ) denial of asylum, withholding of removal and protection under the Convention

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

against Torture. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition.

The IJ erred in denying Kavousi a continuance to obtain new counsel. *See, e.g., Tawadrus v. Ashcroft*, 364 F.3d 1099, 1105 (9th Cir. 2004); *Castro-O’Ryan v. INS*, 847 F.2d 1307, 1313 (9th Cir. 1988). We remand this matter to the BIA, with instructions to remand to the IJ, for a new hearing on Kavousi’s applications for asylum, withholding of removal, and relief under the Convention Against Torture. *See Perez-Lastor v. INS*, 208 F.3d 773, 783 (9th Cir. 2000) (IJ due process violation requires remand to the BIA and thence to the IJ for a new hearing). In light of this disposition, we need not address Kavousi’s remaining claims of error.

Petition **GRANTED** and matter **REMANDED** for further proceedings.