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Hussein v. Gonzales
No. 04-71265

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

RYMER, Circuit Judge, dissenting.

I would deny the petition because the immigration judge (IJ) was not compelled to find Hussein credible, the IJ gave sufficiently specific reasons for his adverse credibility determination, and his findings were supported by substantial evidence. Among other inconsistencies or implausible explanations that mattered: Hussein gave three different versions for why he did not have a National League for Democracy membership card – the card was in Rangoon and his wife couldn't send it because it was too dangerous; she could not send it because he hid it; and he had actually destroyed the card. Although he was a courier for the NLD four or five times, he could not say where he picked up or delivered the documents. He indicated both that he refused to give up names of other NLD members when interrogated in 1991 – and that he gave up names from his dorm. Although he got his masters degree in physics in 1988, and that was the highest level of study at the University, Hussein stayed in a dorm because he did not have a job until 1991, when he was involved in political activity. Hussein testified that he went into the hospital for two weeks when he was released from custody, but also that he was present at the birth of his daughter which occurred within the week after his release. Also, injuries inflicted when he was arrested were severe enough to

require hospitalization for two weeks, but he did not admit himself into the hospital for a week. Further, there were hospital records, but they were in Rangoon.

Finally, the IJ found that Hussein's motivation for coming to the United States was economic, not persecution, a finding that is supported by Hussein's testimony that he came to this country for opportunity. Given these inconsistencies and implausible scenarios, the IJ could well conclude that what Hussein said happened didn't happen. In these circumstances, a finding of past persecution was not compelled.