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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA NADIA PETAI,

Petitioner,

v.

MICHAEL B. MUKASEY,**
Attorney General,

Respondent.

No. 04-72735

Agency No. A72-112-088

MEMORANDUM*

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

Argued and Submitted November 9, 2007
San Francisco, California

Before: NOONAN and McKEOWN, Circuit Judges, and KORMAN***, Senior
Judge.

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

** Michael B. Mukasey is substituted for his predecessor, Alberto R.
Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P.
43(c)(2).

*** The Honorable Edward R. Korman, Senior United States District
Judge for the Eastern District of New York, sitting by designation.

Maria Nadia Petai (“Petai”) petitions for review of the Board of Immigration Appeals’ (“BIA”) decision summarily affirming the Immigration Judge’s (IJ) decision denying her application for asylum, withholding of removal, and relief under the Convention Against Torture.

An applicant who has established past persecution shall be presumed to have a well-founded fear of future persecution. See 8 C.F.R. § 208.13(b)(1). The burden shifts to the government to show by a preponderance of the evidence that there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear of future persecution. See id.; Deloso v. Ashcroft, 393 F.3d 858, 863-64 (9th Cir. 2004).

Because the BIA affirmed the IJ’s ruling without an opinion, the IJ’s decision is the final agency action for purposes of this appeal. See Nuru v. Gonzales, 404 F.3d 1207, 1215 (9th Cir. 2005). We review factual findings for substantial evidence. See Hernandez-Montiel v. INS, 225 F.3d 1084, 1090 (9th Cir. 2000). The IJ found that Petai, as a teenager, had been persecuted by the communist government in Romania, but concluded that evidence of changed country conditions in Romania sufficiently rebutted the presumption of a well-founded fear of persecution. Because the record does not compel a contrary conclusion, see id. at 1091, we uphold the IJ’s determination.

PETITION DENIED.