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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RONY NAJIB BODAK,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 05-73729

Agency No. A078-761-392

MEMORANDUM\*

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

Submitted October 13, 2009\*\*

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Rony Najib Bodak, a native and citizen of Iraq, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum and

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\* 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).

withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings, *Lopez v. Ashcroft*, 366 F.3d 799, 802 (9th Cir. 2004), and we grant the petition for review.

In his September 13, 2001 decision, the IJ found Bodak had suffered past persecution as a Chaldean Christian, had a well-founded fear of persecution, and that Bodak faced a clear probability of persecution if returned to Iraq. The IJ granted withholding of removal, but denied asylum on discretionary grounds. The BIA then remanded the case for the IJ to reconsider his well-founded fear and clear probability findings in light of changed conditions in Iraq. Upon remand, the IJ concluded Bodak did not have a well-founded fear of persecution or a clear probability of persecution due to changed circumstances, and denied Bodak's asylum and withholding of removal claims. The BIA adopted and affirmed this decision.

This court subsequently issued two decisions, *Hanna v. Keisler*, 506 F.3d 933 (9th Cir. 2007), and *Mousa v. Mukasey*, 530 F.3d 1025 (9th Cir. 2008), involving Chaldean Christians in Iraq. In both cases, the court concluded the evidence relating to the removal of Saddam Hussein and the Ba'ath party did not eliminate the petitioners' fear of persecution as Chaldean Christians. In light of these two decisions, we remand Bodak's claims for asylum and withholding of

removal based on his fear of persecution as a Chaldean Christian for reconsideration of whether changed circumstances rebut his presumption of future fear.

In addition, the IJ and BIA erred in ignoring Bodak's separate claims for asylum and withholding of removal based on his fear of persecution due to his imputed political opinion. *See Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) ("the [agency is] not free to ignore arguments raised by a petitioner."). We therefore remand these claims for further proceedings consistent with this disposition.

Finally, in light of our conclusions, we do not reach Bodak's challenges to the BIA's denial of his motion to remand.

**PETITION FOR REVIEW GRANTED; REMANDED.**