United States Court of Appeals
Fifth Circuit
**F I L E D**
March 30, 1995
Charles R. Fulbruge III
Clerk

**IN THE UNITED STATES COURT OF APPEALS**
**FOR THE FIFTH CIRCUIT**

No. 94-40434
(Summary Calendar)

DAVISON OLOSON,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petitition for Review of an Order of the
Board of Immigration Appeals
(A29 979 759)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:*

Petitioner Davison Oloson seeks review of a final order of deportation. Finding that the Board of Immigration Appeals ("BIA") did not abuse its discretion in denying asylum and that substantial evidence supports its finding that Oloson is not entitled to a withholding of deportation, we dismiss his petition.

I

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

## FACTS AND PROCEEDINGS

Oloson, a twenty-six year old native and citizen of Liberia, entered the United States without inspection. Proceeding pro se in a hearing before an Immigration Judge ("IJ"), Oloson admitted that he was deportable but asked for asylum or a withholding of deportation, claiming that he would be persecuted if he were deported to Liberia.

Oloson explained how he, like many other Liberians, became a victim of the disastrous civil war that engulfed Liberia several years ago. Oloson's story began when he was drafted into the Liberian Youth Corps, a military school that provided instruction in preparation for military service. After one year of training, Oloson was drafted into the Armed Forces of Liberia ("AFL") as a private and was ordered to guard the homes of certain military and government officials. The AFL was led by Samuel Doe, the then-president of Liberia. Soon after Oloson entered the army, fighting broke out among various factions, one of which was the National Patriotic Front of Liberia ("NPFL"),[1] a guerrilla army led by Charles Taylor. Doe's forces were ultimately defeated and he was killed. The remnants of the AFL now are largely confined to barracks located around Monrovia.

After several months of service with the AFL, Oloson learned that his father, mother, brother, and sister were among some 600

[1]The Independent National Patriotic Front of Liberia, a faction led by Prince Johnson, was also involved in the early stages of Liberia's civil war but had essentially been dissolved by the end of 1992.

persons who were massacred while they worshipped in a Lutheran Church in Monrovia. Like many others, Oloson suspected that the AFL committed the atrocity. This motivated him to desert the AFL and join the NPFL.

The NPFL promoted Oloson to the rank of captain based on his military experience. He became involved in an NPFL plan to steal various arms and military equipment from the AFL,[2] but after two months with the NPFL he once again became disenchanted and deserted.

Oloson claims that he left the NPFL because that group, like the AFL, was committing atrocities throughout Liberia, and Oloson wanted no part in such activities. Oloson testified that he was particularly disturbed by a genocidal-type order from his NPFL Commander, John Richardson, to shoot on sight various noncombatants, including Economic Community Monitoring Group ("ECOMOG")[3] peace keepers and civilians of several tribes which Richardson believed were sympathetic to another rebel force led by Price Johnson. One of the tribes that Richardson targeted))the Gio))was Oloson's own.

Oloson claims that he spoke against and refused to carry out Richardson's order before deciding to leave the NPFL altogether. When he made that decision he walked to a nearby ECOMOG checkpoint to surrender and was taken into custody. As the ECOMOG soldiers

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[2]It is unclear whether Oloson actually followed through with the plan.

[3]The ECOMOG is a peacekeeping force established by the five-nation Economic Community of West African States.

were questioning Oloson, an NPFL contingent ambushed the checkpoint. Oloson tried to flee, but was shot in the thigh and captured. He and a number of ECOMOG soldiers were taken prisoner and transported to Richardson's camp to be interrogated.

After the prisoners reached camp, they were brought before Richardson, who, Oloson alleges, recognized Oloson, called him a "sellout" and "[b]etrayer in our group," and yelled, "[y]ou can [not] treat us the way you treat[ed] the [AFL]." Oloson claims that an unidentified NPFL captain then stated that he wanted to "fin[d] out what made this man [Oloson] . . . surrender to [the] ECOMOG, why he decided to quit the NPFL, and why he is challenging our order." Oloson recalled that he was then bound, kicked repeatedly, and locked away for the night with the other prisoners.

The next morning, NPFL soldiers resumed their interrogation and torture of Oloson. They sliced Oloson's leg with a knife and slit both of his eyelids with a razor blade. They also kicked him in the groin and struck him in the mouth with a rifle butt, after which he passed out.

When Oloson regained consciousness, he was once again in the hands of the ECOMOG. Oloson later learned that, within twelve hours of the NPFL's attack of the checkpoint, ECOMOG forces had retaliated, had overrun Richardson's camp, and had rescued the prisoners))including Oloson. He was evacuated to a hospital in Nigeria, where his wounds were treated for the next month, but the torture left Oloson with a permanently enlarged testicle and scars on both of his eyelids, his lips, and his right hand and leg.

Following his treatment in the hospital, Oloson was relocated to a refugee camp, also in Nigeria, where he received outpatient care for another two months. When he recovered, Oloson left the camp and traveled to Lagos, where he lived and worked for the next thirteen months. Dissatisfied with his living conditions in Lagos,[4] however, Oloson twice attempted to leave the country by stowing away on departing vessels. But both times he was eventually discovered and returned to Nigeria.

Oloson next purchased a British passport on the black market. While inquiring about the cost of airfare to Canada, Oloson met a ticket agent who offered to introduce him to a "Prince Joseph," who, the agent suggested, might be able to help Oloson obtain money to purchase a ticket. Oloson took the agent's advice and met Prince Joseph, who offered to pay Oloson's way to Canada if he would help Joseph defraud an American businessman, Don Murphy, out of $10,000. Although Oloson understood that Joseph's scheme was illegal, he agreed to participate so that he could escape Nigeria.

Joseph bought Oloson a ticket, and Oloson flew to Canada. He was immediately arrested upon arrival when Canadian authorities recognized that his British passport was fraudulent. Oloson was detained for two weeks, but was released on a signature bond after

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[4]Oloson made a motion to supplement the record with an article entitled The Smiles and Sighs of Exile, which was published in The African Guardian on August 24, 1992. The article describes generally the living conditions of Liberian refugees in Nigeria, but offers little additional insight regarding the material issues raised in Oloson's appeal. Oloson's motion, however, is apparently unopposed; thus we will consider the supplemental information.

the Mormon Church agreed to sponsor him. Oloson stayed in Canada with the Mormons for the next seven months, but remained in contact with Joseph. It soon became time for Oloson to pay his debt to Joseph.

Oloson entered the United States without inspection and, in accordance with Joseph's instructions, met with Murphy. But Murphy had somehow been alerted to Joseph's scam and arrived at the meeting with an undercover FBI agent in tow. Oloson was arrested shortly after he directed Murphy to deposit thousands of dollars into a certain bank account. Oloson pleaded guilty to mail and wire fraud and was sentenced to ten months in prison, followed by three years of supervised release. On completion of his incarceration, Oloson was transferred to the custody of the INS for deportation proceedings.

The INS ordered Oloson to show cause why he should not be deported. Oloson admitted that he was deportable for entering the country without inspection, but contended that he was entitled to asylum or, alternatively, to a withholding of deportation. The IJ disagreed and ordered Oloson deported. He appealed that decision to the BIA, which reviewed the record de novo, concluded that Oloson was not entitled to relief from deportation, and ordered him deported to Nigeria.[5] Oloson filed a motion for reconsideration, which was denied, and this appeal followed.

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[5]One BIA member concurred in the BIA's decision to dismiss the appeal, but dissented in the BIA's conclusion that Oloson presented a credible claim. That member did not find Oloson believable in light of Oloson's "sorry history of fraud."

## II

## ANALYSIS

Under § 208(a) of the Immigration and Nationality Act ("INA"),[6] the Attorney General may grant asylum to an alien who establishes a "well-founded fear of persecution."[7] Under § 243(h),[8] the Attorney General must withhold deportation if the alien demonstrates a "clear probability of persecution."[9] Section § 243(h) thus requires a higher burden of proof than § 208(a),[10] but relief under § 208(a) is discretionary.[11]

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[6]8 U.S.C. § 1158(a) (1988).

[7]Id. § 1101(a)(42)(A); see INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992) ("Section 208(a) . . . authorizes the Attorney General, in his discretion, to grant asylum to an alien who is a "refugee" as defined in the Act, i.e., an alien who is unable or unwilling to return to his home country `because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.'" (quoting § 1101(a)(42)(A))).

[8]8 U.S.C. § 1253(h)(1).

[9]Castillo-Rodriguez v. INS, 929 F.2d 181, 185 (5th Cir. 1991) (stating that relief under § 1253(h) is available only if "an alien . . . establish[es] a clear probability of persecution on one of the enumerated grounds") (emphasis added) (citing INS v. Cardoza-Fonseca, 480 U.S. 421, 430 (1987) and INS v. Stevic, 467 U.S. 407, 429 (1984)).

[10]Ozdemir v. INS, 1994 WL 752653, at *2 (5th Cir. Nov. 1, 1994) (per curiam) ("The burden of proof for withholding of deportation . . . is higher than that for asylum.").

[11]Stevic, 467 U.S. at 413 ("Meeting the definition of a refugee, however, does not entitle the aline to asylum))the decision to grant a particular application rests in the discretion of the Attorney General under § 208(a)."); Cordoza-Fonseca, 480 U.S. at 428 n.5 ("[T]he Attorney General is not required to grant asylum to everyone who meets the definition of refugee. Instead, a finding that an alien is a refugee does not more than establish that `the alien may be granted asylum in the discretion of the Attorney General.'").

The BIA denied Oloson's request for relief, concluding that (1) although Oloson was eligible for asylum under § 208(a), he was unworthy of a favorable exercise of discretion, and (2) Oloson was ineligible for mandatory relief under § 243(h). Those are the rulings that we review on appeal.[12]

A. POLITICAL ASYLUM

An alien shoulders "the burden of establishing that the favorable exercise of discretion is warranted,"[13] although the BIA has stated that, "in the absence of any adverse factors . . . asylum should be granted in the exercise of discretion."[14] "The Attorney General's denial of discretionary relief, such as asylum, may not be disturbed by this court absent a showing that such action was arbitrary, capricious or an abuse of discretion."[15]

The BIA ruled that Oloson was unworthy of a favorable exercise of discretion, finding it particularly important that Oloson had circumvented the orderly refugee admissions process after Nigeria had already given him assistance and protection as a refugee. Oloson admits that he did not comply with the asylum process and entered the United States illegally, but nonetheless urges that he is entitled to a favorable exercise of discretion.

The BIA has consistently held that "an alien's manner of entry

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[12]Adebisi v. INS, 952 F.2d 910, 912 (5th Cir. 1992).

[13]Matter of Pula, 19 I. & N. Dec. 467 (BIA 1987).

[14]Id.; accord Matter of Soleimani, Interim Dec. 3118 (BIA 1989).

[15]Young v. INS, 759 F.2d 450, 455 n.6 (5th Cir.), cert. denied, 474 U.S. 996 (1985); accord Adebisi, 952 F.2d at 912.

or attempted entry is a proper and relevant discretionary factor to consider in adjudicating asylum claims."[16] At one time, the BIA even required aliens such as Oloson who circumvented applicable asylum procedures to make a "most unusual showing of countervailing equities" to obtain a favorable exercise of discretion.[17] This is because, as the State Department once explained in an advisory opinion,

> "[a]sylum in the United States is intended to provide a sanctuary for persons fleeing persecution. It is not intended to be a substitute for nor [sic] an alternative to the immigration laws and policies of this country, and should not become a vehicle of convenience for applicants who may wish to circumvent our immigration laws."[18]

In Matter of Pula,[19] however, the BIA retreated from the demanding "most unusual showing" requirement and stated more leniently that, even though circumvention could be a "serious adverse factor,"[20] the seriousness with which the BIA would consider

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[16]Matter of Pula, 19 I. & N. Dec. 467 (BIA 1987); see Sarkis v. Sava, 599 F. Supp. 724, 725 (E.D.N.Y. 1984) (finding that BIA did not err in denying asylum as matter of discretion to petitioners who fraudulently entered United States as transit without visa aliens).

[17]Matter of Pula, 19 I. & N. Dec. 467 ("We therefore withdraw from Matter of Salim insofar as it suggests that the circumvention of orderly refugee procedures alone is sufficient to require the most unusual showing of countervailing equities.").

[18]Walai v. INS, 552 F. Supp. 998, 999 (S.D.N.Y. 1982) (quoting DEPARTMENT OF STATE OFFICE OF HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, ADVISORY OP. 2 (Apr. 6, 1982)).

[19]19 I. & N. Dec. 467 (BIA 1987).

[20]Id.; see, e.g., Sarkis, 599 F. Supp. at 725; Matter of Gharadaghi, 19 I. & N. Dec. 311 (BIA 1985); Matter of Shirdel, 19 I. & N. Dec. 33 (BIA 1984); Matter of Salim, 18 I & N Dec. 311 (BIA 1982); see also Doherty v. INS, 908 F.2d 1108, 1120-21 (2d

the infraction depends on the totality of the circumstances of the alien's flight from persecution. The BIA then identified in detail numerous factors that it deemed relevant to a determination whether an alien is deserving of a favorable exercise of discretion when the alien has failed to comply with the asylum process.[21] Those criteria are neither arbitrary nor capricious and are well within the discretion vested in the Attorney General by the Act.[22]

Although the BIA can abuse its discretion by failing, inter alia, to evaluate appropriate factors or to offer a reasoned explanation of how it arrived at a particular result in light of those factors,[23] Oloson does not present such a case. Here, the BIA cited Matter of Pula, considered Oloson's plight in light of the appropriate Pula factors, made relevant factual findings that are supported by the evidence, and concluded, consistent with its precedent,[24] that Oloson is not entitled to a favorable exercise of

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Cir. 1990) ("A decade of practice confirms that the [BIA's] discretionary denials of asylum to otherwise eligible candidates have been primarily for . . . abuse [of] the asylum process by fraudulently circumventing the overseas admission process without sufficient cause . . . [and where] refugees . . . have found a safe haven in another country before entering the United States."), rev'd on other grounds, 112 S. Ct. 719 (1992).

[21]See Farbakhsh v. INS, 20 F.3d 877, 881 n.3 (8th Cir. 1994) (listing Pula criteria).

[22]See Zheng v. INS, 44 F.3d 379 (5th Cir. 1995) (per curiam).

[23]See Yepes-Prado v. INS, 10 F.3d 1363, 1370 (9th Cir. 1993).

[24]See, e.g., Matter of Pula, 19 I. & N. Dec. 467 (BIA 1987) (finding applicant warranted favorable exercise of discretion, even though he attempted to enter United States with fraudulent document; alien (1) had resorted to fraudulent entry only after

discretion. Accordingly, we cannot conclude that the BIA acted arbitrarily or capriciously or abused its discretion in denying Oloson's request for asylum.[25]

B. WITHHOLDING OF DEPORTATION

Oloson also claims that he is entitled to a withholding of deportation. Section 1253(h)(1) provides that "[t]he Attorney General shall not deport or return any alien . . . to a country if the Attorney General determines that such alien's life or freedom

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several unsuccessful attempts to obtain visa through proper channels; (2) had stopped enroute in two other countries, Belgium and the Netherlands, for total of only six weeks, and was not entitled to remain permanently in either one; and (3) chose to flee to United States because he had many relatives here, and IJ found that those relatives were "particularly supportive and concerned about him"); Matter of Soleimani, Interim Dec. 3118 (BIA 1989) (alien granted asylum as (1) alien applied for asylum while in United States legally; (2) all but one family member now resided in United States, although most were asylum applicants at time of her deportation hearing; and (3) alien had stopped in third country for only 10 months, primarily to recover from pneumonia and to attend language courses, during which time she never worked or sought employment); Matter of Chen, Interim Dec. 3104 (BIA 1989) (asylum granted to Chinese alien (1) who had entered United States legally and had lived here for eight years; (2) who was closely identified with persecuted religious family in China; and (3) where only adverse factor was that he intended to remain here even though he was admitted temporarily); see also Matter of Gharadaghi, 19 I. & N. Dec. 311 (BIA 1985) (pre-Pula case) (holding alien not entitled to favorable exercise of discretion as he had spent seven months in safe haven (Pakistan), during which time he had purchased fraudulent passport and travelled to Canada (via Rome) with intent to enter United States illegally, even though alien had proffered countervailing equities, e.g., had (1) tried but failed to obtain refugee status abroad, and (2) at least one family member legally residing in United States and others who also were seeking asylum).

[25]Oloson argues that the BIA erred in finding that he was not entitled to asylum as he was "firmly resettled" in Nigeria; but he misapprehends the BIA's ruling. The BIA found that there is insufficient evidence to support a finding that Oloson was firmly resettled, but it reasoned that the time that Oloson spent in Nigeria "is relevant in the exercise of discretion."

would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion." The Supreme Court has interpreted § 1253(h)(1) to require that the alien present evidence establishing "a clear probability,"[26] i.e., that "it is more likely than not,"[27] that the alien would be subject to persecution on one of those specified grounds.

The BIA concluded that Oloson failed to demonstrate a clear probability of future persecution on account of any of the statutory grounds; we review the record to determine whether substantial evidence supports that conclusion.[28] This extremely deferential standard "`requires only that the [BIA's] conclusion be based upon the evidence presented and that it be substantially reasonable.'"[29] For us to reverse the BIA under that standard, therefore, Oloson must prove that the evidence he presented to the BIA was so compelling that no reasonable factfinder could fail to find a clear probability that he would be persecuted in the future on account of one of the five statutory bases.[30]

As the BIA has explained, "[i]n examining a claim of

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[26]INS v. Stevic, 467 U.S. 407, 413 (1984).

[27]Id.

[28]Zamora-Morel v. INS, 905 F.2d 833, 838 (5th Cir. 1990); accord Adebisi v. INS, 952 F.2d 910, 912 (5th Cir. 1992) (quoting Zamora-Morel).

[29]Wilson v. INS, 43 F.3d 211, 213 (5th Cir. 1995) (per curiam) (quoting Animashaun v. INS, 990 F.2d 234, 237 (5th Cir. 1993), cert. denied, 114 S. Ct. 557 (1993)).

[30]See INS v. Elias-Zacarias, 502 U.S. 478, 483 (1992).

persecution in the context of a civil war, one must examine the motivation of the group threatening harm."[31] Our inquiry therefore focuses on what might motivate someone in Liberia to harm Oloson in the future.

1. Desertion

Oloson first claims that either the AFL (or former AFL members) or the NPFL))or both))might want to punish him because he deserted each group's army. The BIA rejected Oloson's argument, explaining that retribution against Oloson because he is a deserter is not the type of persecution that mandates relief from deportation. We agree.

Maintaining discipline within a military organization, whether it is a guerilla force or a national army, is a necessary means of achieving a political goal, but the BIA has long held that such punishment or threat of punishment is not a form of persecution directed at someone on account of political belief.[32] By punishing

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[31]Matter of Rodriguez-Majano, 19 I. & N. Dec. 811 (BIA 1988); see Elias-Zacarias, 502 U.S. at 483 (explaining that applicant must establish, inter alia, fear of persecution "because of [his] political opinion"); Rivas-Martinez v. INS, 997 F.2d 1143, 1148 (5th Cir. 1993) (stating that asylum seeker must "adduce `some evidence, direct or circumstantial,' that (1) her opposition was motivated by her political opinions; (2) her political opposition was known to the guerrillas, and (3) that they persecuted her, or likely would do so upon her return, because of that opinion").

[32]See Matter of McMullen, 19 I. & N. Dec. 90 (BIA 1984) (finding that Provisional Irish Republican Army's "use of violence and threats of violence against its members is used to maintain discipline and order within the rank and file of its membership, thus it does not constitute persecution within the meaning of the Act"), aff'd, 788 F.2d 591 (9th Cir. 1986); cf. Elias-Zacarias, 502 U.S. at 489 n.6 (Stevens, J, dissenting) ("The INS has long recognized . . . that the normal enforcement

or threatening to punish deserters, military units are able to maintain discipline within their ranks; thus the BIA has stated that such violence or threat of violence is for the purpose of maintaining order and does not constitute persecution or fear of persecution on account of one of the five categories enumerated by the Act.[33] We agree with the Eleventh Circuit that, "[t]he BIA's determination that the need to discipline and silence deserters is not persecution on account of `political opinion' within the meaning of the Act is reasonable."[34] Oloson therefore cannot establish that he is entitled to a withholding of deportation by showing that he fears he will be punished because he deserted.

2. Acts of Warfare

Neither can Oloson prove that he is entitled to relief from deportation because he fears that he will be harmed for conspiring to steal AFL arms. Oloson believes that the AFL has singled him out for persecution because of that involvement and offers as proof the text of an interview by Alhaji G.V. Kromah, a leader of the

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of selective service laws is not `persecution' within the meaning of the statute even if the draftee's motive is political.").

[33]See, e.g., Matter of Rodriguez-Majano, 19 I. & N. Dec. 811 (BIA 1988) (stating that disciplining members of a "rebel group" is not harm on account of politics); Matter of McMullen, 19 I&N Dec. 90 (BIA 1984) (characterizing punishment of deserters as apolitical act of imposing discipline), aff'd, 788 F.2d 591 (9th Cir. 1986); see also Perlera-Escobar v. INS, 894 F.2d 1292, 1298-99 (11th Cir. 1990) (explaining that fear of future harm for past desertion is not "on account of political opinion").

[34]Perlera-Escobar, 894 F.2d at 1298.

United Liberation Movement of Liberia for Democracy ("ULIMO"),[35] in which Kromah identified a "Davison Oluson" as a "former NPFL leader that escaped justice."[36] But stealing enemy equipment is a typical military tactic, and the BIA has held that an applicant cannot demonstrate a fear of future persecution on account of one of the five bases enumerated in the Act merely because he is afraid he will be punished for participating in traditional military activities.[37] We cannot say that the BIA's interpretation is unreasonable.[38]

3. Opposition to Richardson's Order

Finally, Oloson urges that there is a clear probability that he will be punished for vocally opposing and refusing to obey his NPFL commander's order to kill noncombatants. The BIA properly

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[35]The ULIMO is a faction composed of many former AFL soldiers.

[36]As additional proof of his claim that the AFL was interested in prosecuting him for desertion and his role in the conspiracy to steal arms, Oloson made a motion to supplement the record with a February 12, 1991 article entitled, Plot Allegation, published in the African News Weekly, in which an AFL leader claimed that "[t]he government of Liberia [would] like to see Davison Oloson deported from Nigeria" so that he could be arrested for "aiding and abetting" the enemy. As we explain above, however, an arrest on those charges is permissible prosecution))not impermissible persecution for political beliefs.

[37]See Matter of Rodriguez-Majano, 19 I. & N. Dec. 811 (BIA 1988).

[38]Although Oloson might have been able to establish persecution under the Act if he were able to provide evidence that he faced a disproportionately severe punishment on account of one of the five grounds enumerated in the Act as a result of either his desertion or his theft of AFL equipment, Barraza Rivera v. INS, 913 F.2d 1443, 1450-51 (9th Cir. 1990); M.A. v. INS, 899 F.2d 304, 312 (4th Cir. 1990) (en banc), he failed to adduce any such evidence.

concluded that fear of future retribution for failing to comply with such an order can establish persecution on account of political opinion,[39] but concluded nonetheless that there is only a "reasonable possibility"))but not the requisite "clear probability"))that the NPFL might try to harm Oloson in the future on account of that belief. Substantial evidence supports the BIA's finding.

We first note that Oloson has failed to proffer any evidence that the NPFL has a current interest in locating or punishing him for any reason whatsoever))much less for opposing or refusing to follow Richardson's order. Neither can we say that evidence that the NPFL showed some interest in why Oloson deserted and challenged their "order" while they tortured him compels the conclusion that Oloson would be persecuted in the future for his political beliefs.

As the BIA explained, the evidence indicates that the NPFL likely had mixed motives for torturing Oloson; they viewed him as a traitor and he had disobeyed his commander's order.[40] Such

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[39]See Barraza Rivera, 913 F.2d at 1450 (explaining that persecution on account of political opinion can occur when an alien fears reprisal for "refusing to comply with military orders . . . [if the orders] violate standards of decency"); M.A., 899 F.2d at 311 (acknowledging that persecution on account of political belief can result in those "rare cases" in which an alien refuses to serve in or be associated with "a military whose acts are condemned by the international community as contrary to the basic rules of human conduct").

[40]When Oloson's "interrogation" is viewed in toto, it is clear that politics was not the only topic on those soldiers' minds. The NPFL soldiers referred to Oloson as a "sellout" and "[b]etrayer" and referred to the fact that he had also deserted the AFL. As the BIA observed, it is certainly plausible that he was beaten because the NPFL viewed him as a traitor))not because they believed, rightly or wrongly, that he held any particular

evidence could demonstrate, as the BIA found, that there is a reasonable possibility that the NPFL considered Oloson's opposition to their orders to be politically motivated, and they might seek to harm him in the future on account of his political opposition. But such evidence, standing alone, is not sufficient to convince us that no reasonable factfinder could fail to find it more likely than not that the NPFL would persecute Oloson in the future for his political beliefs.[41] Yet that is precisely what Oloson is required to prove to obtain a reversal of the BIA's decision.[42]

## III

## CONCLUSION

For the foregoing reasons, we must dismiss Oloson's petition for review.

PETITION FOR REVIEW DISMISSED.

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political views.

[41]Compare Barraza Rivera, 913 F.2d at 1454 (holding that BIA was substantially reasonable in concluding that alien failed to prove a clear probability of future prosecution even though the alien refused military officer's order, issued under threat of death, to participate in paid assassinations).

[42]INS v. Elias-Zacarias, 502 U.S. 478, 484 (1992); Jukic v. INS, 40 F.3d 747, 749 (5th Cir. 1994).