



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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P.O. Box 8728
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Name: PFERRERKORN, BERNADAIT

A76-491-269

Date of this notice: 10/15/2002

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Jeffrey Fratter
Chief Clerk

Enclosure

Panel Members:
SCHMIDT, PAUL W.

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10/16/02

Falls Church, Virginia 22041

File: A76 491 269 - Boston

Date:

In re: BERNADAIT PFERRERKORN

OCT 15 2002

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Thomas Hutchins, Esquire

CHARGE:

Order: Sec. 237(a)(1)(B), I&N Act [8 U.S.C. § 1251(a)(1)(B)] -
In the United States in violation of law

APPLICATION: Asylum; withholding of removal.

ORDER:

PER CURIAM. In a decision dated October 20, 1999, the Immigration Judge found the respondent removable as charged, and denied her application for asylum and withholding of removal. The respondent appealed. The record will be remanded for further consideration.

The respondent, a German citizen of Iranian descent, fears returning to Germany, in part, because of the abuse she suffered at the hands of her husband. The respondent's testimony, which the Immigration Judge deemed credible, reflects that the respondent was subjected to repeated rapes, beatings and abuse (I.J. at 16; Tr. at 199-200; Respondent's Brief 17-20). Subsequent to the Immigration Judge's decision in this case, the Immigration and Naturalization Service proposed new regulations regarding gender based asylum claims. See 65 Fed. Reg. 76588 (Dec. 7, 2000). Furthermore, the Board recently addressed similar issues in *Matter of R-A-*, 23 I&N Dec. 906 (BIA 1999; A.G. 2001). The Service subsequently requested the Attorney General to vacate the Board's decision in *Matter of R-A-*. On January 19, 2001, the Attorney General vacated our decision in *Matter of R-A-* and remanded the case for further consideration pending the publication of the final regulation. *Matter of R-A-, supra*.

In light of these recent developments, the record will be remanded to the Immigration Judge. Upon remand, the Immigration Judge should allow the parties to present further evidence regarding current country conditions, the respondent's eligibility for relief and whether, if eligible, she merits relief in the exercise of discretion. *Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996); *Matter of Pula*, 19 I&N Dec. 467 (BIA 1987).

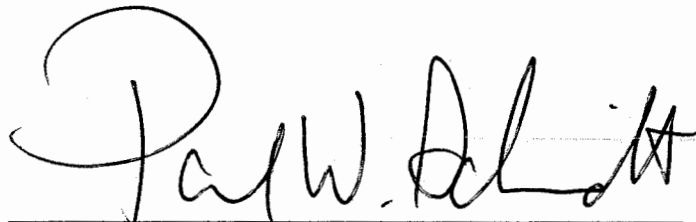
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FURTHER ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing opinion.

A handwritten signature in black ink, appearing to read "Jay W. Albright". The signature is written in a cursive style with a large initial "J".

FOR THE BOARD