

Interim Decision #2868

MATTER OF MAHMOUDI

In Deportation Proceedings

A-22891304

*Decided by Board June 11, 1981*

In recognition of a change in Service policy, the Board will no longer consider motions to reopen to apply for political asylum filed by Iranian nationals to be unopposed by the Service. *Matter of Farjam*, Interim Decision 2843 (BIA 1980), superseded.

CHARGE:

Order: Act of 1952—Sec. 241(a)(2) [8 U.S.C. 1251(a)(2)]—Nonimmigrant—remained longer than permitted

ON BEHALF OF RESPONDENT:

Amiram Klein, Esquire  
8920 Wilshire Boulevard  
Suite 520  
Beverly Hills, California 90211

ON BEHALF OF SERVICE:

William Martin  
Trial Attorney  
  
Gerald S. Hurwitz  
Appellate Trial Attorney

By: Milhollan, Chairman; Maniatis, Maguire, and Morris, Board Members

In a decision dated June 3, 1980, the immigration judge found the respondent, a native and citizen of Iran, deportable as an overstay and granted him voluntary departure. The respondent's appeal from that decision was dismissed by the Board on November 6, 1980. The respondent now seeks to reopen deportation proceedings in order to apply for political asylum. The motion will be granted, proceedings will be reopened, and the record will be remanded to the immigration judge.

In responding to the motion, the Appellate Trial Attorney for the Immigration and Naturalization Service states that reopening is not opposed in this case because the motion presents a prima facie showing of eligibility for relief and is in compliance with the regulatory requirements for a motion to reopen to the Board to apply for asylum. See 8 C.F.R. 3.2; 8 C.F.R. 3.8; 8 C.F.R. 208.11 (effective June 1, 1980). He further indicates, however, that the Service policy not to oppose motions to reopen to apply for asylum filed by Iranian nationals, which was acknowledged by the Board in *Matter of Farjam*, 17 I&N Dec. 603 (BIA 1980), is no longer in effect. As evidence of this modification of policy, the Appellate Trial Attorney has submitted a memorandum dated

Interim Decision #2868

April 24, 1981, from the Acting Commissioner of the Immigration and Naturalization Service notifying the Regional Commissioners of this change.

As we recognized the Service policy in regard to motions to reopen to apply for asylum by Iranian nationals in *Matter of Farjam, supra*, we now acknowledge the modification of that policy and will no longer consider such motions as unopposed by the Service. Accordingly, *Matter of Farjam* is hereby superseded. However, as the Service does not oppose reopening in this case for the reasons stated above, the motion will be granted.

**ORDER.** The motion to reopen is granted. The proceedings are reopened and the record is remanded to the immigration judge for consideration of the respondent's application for political asylum.