

**SUMMARY OF ORAL/WRITTEN DECISIONS BY IJs
NO BOARD DECISION YET, OR NO APPEAL**

Matter of K-S- to BIA on April 5, 2007

Basi case

Direct evidence of other identical applications

Respondent's testimony was consistent with his application, but DHS submitted evidence that Basi, Respondent's preparer, had been indicted and convicted for filing false applications. Basi testified that Respondent's application was falsified, and submitted another application that was nearly identical to Respondent's but had been submitted previous to Respondent's arrival in the United States. Not only were the incidents experienced by the two applicants the same, the wording in several areas were identical. Adverse credibility and frivolous finding.

Matter of N-K- to BIA on January 19, 2007

Basi case

Direct evidence of identical affidavits; circumstantial evidence of inconsistencies

Adverse credibility finding based on inconsistencies and implausibilities. First, Respondent could not explain inconsistencies between his testimony and a complaint filed by his cousin's family regarding his cousin's arrest, torture, and murder. He testified inconsistently about the place of arrest and the date of arrest, and did not know when his cousin was first arrested or whether he was convicted for a crime when he was arrested. In addition, he could not explain why he was not mentioned as being at the police station on the day his cousin was killed. This was significant because Respondent's asylum claim was based on being a witness to his cousin's wrongful death. Second, Respondent's testimony declaration and submitted affidavits was suspect. He testified that both he and each affiant wrote their declarations in their own words, based on their own memory, with no help from outside sources at all. However, the signed preparer, Basi, as well as the investigative officer, testified that Basi did help with the creation of all the documents. Further, the affidavits and his own declaration contained identical language when describing his cousin's torture, and threats by the police. Third, Respondent testified that his signature appeared on a client intake form that contained a blank under the question of reason for seeking asylum. However, he testified that he never signed the form and could not explain how all of his information and his signature appeared on the paper. Based on these inconsistencies and implausibilities, and given that Respondent had been given the frivolous warning, the IJ made a frivolous filing.

Matter of D-B-P- to BIA on December 8, 2006

Direct evidence of admittedly false testimony; circumstantial evidence of inconsistencies and demeanor

Respondent admitted that he conspired with his prior attorney and lied to the Court about whether he had contacted family members in India as a way to excuse him from failing to produce crucial identity documents. Further, Respondent was not forthcoming about this information and did not reveal the fabrication until pressed for an explanation to inconsistencies and asked three separate times. In addition to this fabrication, there were multiple inconsistencies such as his mistreatment during his first arrest (adding to his mistreatment during his second hearing), the warning he was given by police (stating at first it was at the police station but later stating it most definitely was not at the police station), and whether he received medical treatment after his second arrest (stating the first two times that he went straight home with no treatment, then later stating he was seen by the family doctor). Further, Respondent's explanations for these inconsistencies were not supported by the record. Lastly, Respondent was inconsistent when testifying about his identify, indicating two dates (1996 and 2006) as to when he lost passport, being unable to explain why he never renewed his passport, even when asked to do so by the Court, and having no explanation for inconsistencies between his passport and his oral testimony regarding his place of birth and his mother's place of birth. Respondent admitted he lied under oath and this testimony was material because it went to Respondent's true identity, a crucial aspect of an asylum claim.

Matter of D-S- to BIA December 8, 2006

Circumstantial evidence of implausibilities and inconsistencies

Implausibility that Respondent could have walked from Guatemala to Brownsville, Texas, by foot in six days, and that the entire trip would be through the jungle. Was asked repeatedly if this was true and

asked if he could explain how he walked so far in such a short time and he was unable to respond other than that he walked for six days. After a month, Respondent returned for more testimony and on re-direct, he told the court that he had, in fact, been driven in a trailer for 24 hours in addition to his walking and that he had "made a mistake" when he testified earlier. Respondent was unable to provide an affidavit from his uncle with whom he allegedly lived when he arrived but who was currently in India, despite having been given a continuance. In addition, there were numerous inconsistencies within Respondent's testimony, as well as between his testimony before the Court and the Asylum Office, such as who was arrested with him, why his father returned from hiding, how much school he missed when detained, how many policemen arrested him, whether he could walk after his release, and whether his mother or a doctor took care of him after his release. In addition, Respondent, became nervous and hesitant and gave varying answers when asked if he testified truthfully at the Asylum Office.

****end of order missing.

Matter of S-G- recently issued

Direct evidence of admittedly false testimony

The IJ found Respondent not credible based on admitted false testimony she gave in her asylum application and in two interviews before an Asylum Officer. IJ also made a frivolous application finding and pretermitted Respondent's asylum application. The BIA remanded the case to give Respondent the opportunity to address the inconsistencies. On remand, Respondent addressed the material inconsistencies in her application through an affidavit and motion, stating that she had fabricated parts of her asylum application but had done so on bad advice from an immigration consultant and was sorry for her actions. In particular, Respondent fabricated information concerning the time, manner, and place of entry; where she resided before coming to the United States; what type of work she did in India, when her parents discovered her marriage; and the persecution she suffered at the hands of her parents in reaction to this news. These falsities were material because Respondent's application was based on persecution she suffered by her parents which allegedly occurred while Respondent was actually in the United States, not India. Further, her time of entry was material because it relates to whether she qualified for asylum under the one-year bar. Respondent was given adequate warnings as indicated by the sworn oath from the asylum office Respondent signed.

Matter of W-L-C- no appeal

Circumstantial evidence of inconsistencies

There were material inconsistencies between Respondent's declaration and her testimony both direct and cross examination. Respondent failed to include key elements of his treatment in detention, such as being beaten by a chair and being handcuffed and hung while being beaten. His explanation for these omissions was merely that he did not write the details because he was confused. Further, Respondent failed to mention in his declaration or direct examination that he had moved out of his family house from January 2001 to July 2002 to avoid detection by officials and only mentioned this upon cross examination. Upon questioning, Respondent was unable to indicate the address of the apartment or name of the person from whom he rented. In addition, Respondent was unable to recall how long he had been practicing Falun Gong prior to his arrest and torture, vacillating between 4-5 months and over a year. Respondent finally stated, "I didn't think about it. I don't remember." These inconsistencies go to the heart of Respondent's claim because they related to his persecution and are thus material. Respondent was given an opportunity to address these inconsistency but failed to give a plausible explanation.