

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Sufiyan v. Bondi

Sufiyan v. Bondi · No. 22-6392 · Decided March 12, 2026

SUMMARY

The Second Circuit reviews Mohamed Irshan Mohamed Sufiyan’s challenge to the denial of asylum, statutory withholding of removal, and protection under the Convention Against Torture. The court holds that the Board of Immigration Appeals should have determined whether Sufiyan would otherwise qualify for asylum or statutory withholding absent the material support bar, so that he could pursue a discretionary waiver from the Department of Homeland Security. The court grants the petition in part and remands for that determination, while denying relief concerning CAT withholding and deferral because the record did not establish that torture was more likely than not upon return to Sri Lanka.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	ROBINSON, Circuit Judge; KEARSE, Circuit Judge; SULLIVAN, Circuit Judge
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	March 12, 2026
DOCKET	22-6392
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of a Board of Immigration Appeals decision affirming an immigration judge's denial of asylum, statutory withholding of removal, and relief under the Convention Against Torture.
STANDARD OF REVIEW	The court reviewed the IJ's decision as supplemented by the BIA, considered only grounds reached and relied on by the BIA, reviewed factual findings for substantial evidence, reviewed questions of law and application of law to facts de novo, and applied the statutory rule that administrative factual findings are conclusive unless any reasonable adjudicator would be compelled to conclude otherwise.
PRECEDENTIAL VALUE	Published and precedential Second Circuit opinion

PARTIES

Mohamed Irshan Mohamed Sufiyan v. Pamela Bondi, United States Attorney General

TOPICS

asylum removal proceedings statutory interpretation administrative law appellate procedure

PRACTICE AREAS

immigration asylum removal proceedings administrative law appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported the denial of deferral of removal under the Convention Against Torture.
2. Whether the BIA was required to determine whether Sufiyan would otherwise be eligible for asylum and statutory withholding of removal if the material-support bar did not apply.
3. Whether the IJ or BIA was required to determine whether Sufiyan provided material support to the LTTE under duress.

HOLDINGS

1. The agency's denial of CAT protection was supported by substantial evidence because Sufiyan did not establish that it was more likely than not that he would be tortured in Sri Lanka.
2. When the material-support bar is the basis for denying asylum or statutory withholding and USCIS will not consider an exemption application absent a determination of otherwise-eligibility, the BIA must adjudicate whether the applicant would qualify for the relief but for the material-support bar.
3. The IJ and BIA were not required to determine whether Sufiyan provided material support to the LTTE under duress.

KEY QUOTATIONS

“But here, under the regulatory scheme as currently constituted, the BIA was required to adjudicate the merits before (or alongside) adjudicating the material support question.” (15-16)

“For these reasons, we agree with Sufiyan that the BIA erred by failing to adjudicate his claims for asylum and statutory withholding of removal to determine whether he would be eligible for either of these forms of relief but for the material support bar.” (26-27)

“Whether a noncitizen provided material support to a terrorist organization under duress is a factual question for USCIS to evaluate on the merits of the noncitizen’s application for a material support bar waiver.” (28)

FACTUAL BACKGROUND

Sufiyan, a Sri Lankan national, was abducted by LTTE members in 2009 and forced at gunpoint to translate during their interrogation of another captive. The Sri Lankan army later detained him for several months and

beat him on several occasions, after which he relocated within Sri Lanka and lived there for years without further incident before traveling repeatedly between Sri Lanka and the United States. He feared that Sri Lankan authorities would torture or kill him because they believed he was connected to the LTTE.

PROCEDURAL HISTORY

The immigration judge denied all requested relief and ordered Sufiyan removed to Sri Lanka, finding that the material-support bar applied and independently denying relief on the merits. The BIA dismissed Sufiyan's appeal, treating the material-support bar as dispositive of the asylum and statutory-withholding claims and affirming on the merits the denial of CAT deferral. The Second Circuit granted the petition in part and remanded for a but-for eligibility determination regarding asylum and statutory withholding, while denying review of the CAT claims and the requested duress determination.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the BIA to determine whether Sufiyan would be entitled to asylum or statutory withholding of removal under the INA if the material-support bar did not apply.

CASES CITED

- Yan Chen v. Gonzales, 417 F.3d 268, 271 (2d Cir. 2005)
- Yanqin Weng v. Holder, 562 F.3d 510, 513 (2d Cir. 2009)
- Savchuck v. Mukasey, 518 F.3d 119, 123 (2d Cir. 2008)
- Manning v. Barr, 954 F.3d 477, 488 (2d Cir. 2020)
- Quintanilla-Mejia v. Garland, 3 F.4th 569, 593-94 (2d Cir. 2021)
- Matter of M-H-Z-, 26 I. & N. Dec. 757, 762-63 (B.I.A. 2016)
- Ay v. Holder, 743 F.3d 317, 319 (2d Cir. 2014)
- Annachamy v. Holder, 733 F.3d 254, 264 (9th Cir. 2013)
- Hernandez v. Sessions, 884 F.3d 107, 110-12, 116-17 (2d Cir. 2018)
- Doleck Nepali v. Barr, 828 F. App'x 14, 18 (2d Cir. 2020)
- FH-T v. Holder, 743 F.3d 1077, 1081 (7th Cir. 2014)
- Costello v. Immigration & Naturalization Service, 376 U.S. 120, 127-28 (1964)
- Hensley v. Eckerhart, 461 U.S. 424, 429 (1983)
- Bell v. Wolfish, 441 U.S. 520, 547-48 (1979)
- Paucar v. Garland, 84 F.4th 71, 87 (2d Cir. 2023)
- INS v. Bagamasbad, 429 U.S. 24, 25 (1976)
- Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc., 435 U.S. 519, 543 (1978)
- FH-T v. Holder, 723 F.3d 833, 843-46 (7th Cir. 2013)

- In re S-K-, 23 I. & N. Dec. 936, 941 (B.I.A. 2006)
- Matter of Negusie, 28 I. & N. Dec. 120 (U.S. Att'y Gen. 2020)
- Ajdin v. Bureau of Citizenship & Immigration Services, 437 F.3d 261, 264-65 (2d Cir. 2006)
- United States v. Maria, 186 F.3d 65, 70 (2d Cir. 1999)
- Whitman v. American Trucking Associations, 531 U.S. 457, 468 (2001)

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