

Supreme Court to Hear Oral Arguments in Negusie on November 5th

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The U.S. Supreme Court will hear oral arguments in *Negusie v. Mukasey* on 11/5/08. The Supreme Court granted certiorari to decide whether a person who was compelled, against his will, to assist or take part in persecution is barred from asylum under the persecutor bar at INA § 208(b)(2)(A)(i).

Supreme Court Grants Certiorari to Consider Persecutor Bar to Asylum

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On March 17, 2008, the Supreme Court granted certiorari to decide whether a person who was compelled, against his will, to assist or take part in persecution is barred from asylum under the persecutor bar at INA § 208(b)(2)(A)(i). The case involves an Eritrean citizen who worked as an armed prison guard. He objected to and occasionally disobeyed orders to inflict punishment on the prisoners. Nonetheless, the BIA found that he assisted in the persecution of others and therefore is statutorily ineligible for asylum and withholding of removal. The Fifth Circuit affirmed the BIA's decision. In its per curiam order, the Fifth Circuit noted that whether Petitioner was compelled to assist authorities or whether he shares the authorities' intentions is irrelevant.

It is expected that the Court will hear this case in the term beginning October 6, 2008. The case is *Negusie v. Gonzales*, 231 Fed. Appx. 325, No. 06-60193 (5th Cir. May 15, 2007) (per curiam), *cert. granted sub nom. Negusie v. Mukasey*, No. 07-499, 2008 U.S. LEXIS 2444 (U.S. Mar. 17, 2008).