

Memorandum



BIA 08-01

Subject CASE HOLD - Material Support to Terrorist Organizations	Date March 18, 2008
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To
Board Legal Staff

From
Juan P. Osuna *JPO*
Acting Chairman

On January 22, 2007, I authorized the temporary suspension of the adjudication time limits for cases where the Immigration Judge found, or the Department of Homeland Security is arguing, that the respondent is barred from asylum on the basis of having provided material support to a terrorist organization. The memorandum advised that the Board was awaiting guidance from the Department concerning the implementation of any policy that could affect Board decisions as a result of the announcement by the Departments of Justice, State and Homeland Security that they would expand the use of section 212(d)(3)(B)(i) of the Immigration and Nationality Act (discretionary exemption of the bar to aliens who have provided material support to a terrorist or terrorist organization). As noted in the Board's recent decision in *Matter of S-K-*, 24 I&N Dec. 475, 476 (BIA 2008), the Secretary of Homeland Security decided to exercise his discretionary authority under section 212(d)(3)(B)(i) of the Act to determine that the material support bar did not apply to certain aliens applying for immigration benefits. However, the publication of *Matter of S-K-*, does not address some important outstanding issues related to the material support bar and the implementation of the Secretary's exemption authority.

The Board has been participating in an interagency working group comprised of representatives from USCIS, ICE and EOIR regarding an implementation process for the adjudication of individual 212(d)(3)(B)(i) exemption cases for those aliens who have been placed in proceedings before EOIR. Until procedures are finalized, I am continuing to direct that the adjudication time limits be temporarily suspended in individual cases where the Immigration Judge found, or DHS is arguing, that the respondent is barred from relief on the basis of having provided material support to a terrorist or terrorist organization. If you come across a case with this or similar issues, please bring it to the attention of a Team Leader or Senior Panel Attorney.