

U.S. Department of Justice  
Executive Office for Immigration Review  
United States Immigration Court

In the Matter of

File: [REDACTED]

VIJAYAKUMAR THURASSIGIAM

)

)IN CREDIBLE FEAR REVIEW PROCEEDINGS

RESPONDENT

)

)

Transcript of Hearing

Before HENRY IPEMA, Immigration Judge

Date: March 17, 2017

Place: OTAY MESA, CALIFORNIA

Transcribed by DEPOSITION SERVICES, Inc.-2

Official Interpreter: 6161573

Language: TAMIL

Appearances:

For the RESPONDENT: PRO SE

For the DHS: ROBERT WITNES

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1 JUDGE FOR THE RECORD

2 Our official interpreter in the Tamil language is appearing through the  
3 SOSi interpretation services, and her code for today is 6161573.

4 JUDGE TO INTERPRETER

5 To our interpreter, do you swear or affirm to translate and interpret  
6 accurately and correctly from the English to the Tamil, Tamil to the English, to the best  
7 of your ability?

8 INTERPRETER TO JUDGE

9 Yes, I do, Your Honor.

10 JUDGE TO INTERPRETER

11 Thank you.

12 JUDGE TO MR. THURASSIGIAM

13 And then through our interpreter to the respondent, sir, good morning.  
14 What language do you speak and understand the best?

15 MR. THURASSIGIAM TO JUDGE

16 Tamil.

17 JUDGE TO MR. THURASSIGIAM

18 And can you hear the interpreter clearly through the headphones?

19 MR. THURASSIGIAM TO JUDGE

20 Yes, Your Honor.

21 JUDGE TO MR. THURASSIGIAM

22 And is she speaking your language?

23 MR. THURASSIGIAM TO JUDGE

24 Yes, Your Honor.

25 JUDGE TO MR. THURASSIGIAM

1 All right.

2 JUDGE FOR THE RECORD

3 This is Immigration Judge Henry Ipema, I-P-E-M-A. I am presiding over  
4 the detained docket of the Otay Mesa, California, Immigration Court. Today's date is  
5 March 17, 2017. This next case is a credible fear review in file [REDACTED]. The  
6 respondent's name is Vijayakumar Thurassigiam. And I'm going to spell it for the  
7 record. V-I-J-A-Y-A-K-U-M-A-R, and last name, T-H-U-R-A-I-S-S-I-G-I-A-M [sic]. The  
8 respondent is present, and he does not appear to be accompanied by any individual.  
9 The Government has sent an observer to the proceedings.

10 JUDGE TO MR. WITIES

11 And, counsel, if you want to state your name for the record?

12 MR. WITIES TO JUDGE

13 I'm senior attorney Robert Wities.

14 JUDGE TO MR. WITIES

15 Thank you.

16 JUDGE TO MR. THURASSIGIAM

17 And to the respondent, sir, would you please stand and raise your right  
18 hand? Sir, do you swear or affirm to tell the whole truth and nothing but the truth?

19 MR. THURASSIGIAM TO JUDGE

20 I do speak only truth.

21 JUDGE TO MR. THURASSIGIAM

22 Thank you. Please be seated. And state your full and true name for the  
23 record.

24 MR. THURASSIGIAM TO JUDGE

25 Thurassigiam, Vijayakumar.

1 JUDGE FOR THE RECORD

2 We note for the record that the respondent is being provided a closed  
3 hearing. There are no other applicants in the courtroom, only those directly associated  
4 with the respondent's hearing, the Court, the Government observer, the interpreter, and  
5 an officer, and of course the respondent.

6 JUDGE TO MR. THURASSIGIAM

7 So to the respondent, the Immigration Officer has found that you are  
8 removable from the United States. The Asylum Officer has determined that you do not  
9 have a credible fear of persecution or torture. You asked for an Immigration Judge to  
10 review the Asylum Officer's determination.

11 MR. THURASSIGIAM TO JUDGE

12 Yes, Your Honor.

13 JUDGE TO MR. THURASSIGIAM

14 And we are about to conduct that review. But please understand that the  
15 Court has no authority in your case beyond this review. Now, sir, there is no one else in  
16 the courtroom, but did you have anyone, such as an attorney or a family member or a  
17 friend, with you here today?

18 MR. THURASSIGIAM TO JUDGE

19 No, Your Honor.

20 JUDGE TO MR. THURASSIGIAM

21 The regulations allow for a respondent to consult with an attorney or other  
22 person prior to this review. However, for this review, the regulations provide no role for  
23 an attorney or other person, nor for a continuance for an attorney or attorney  
24 preparation. The regulations do, however, require that this review be conducted  
25 expeditiously following the interview. Therefore, let me ask you, sir, do you remember

1 being interviewed by an Asylum Officer?

2 MR. THURASSIGIAM TO JUDGE

3 Yes, I do.

4 JUDGE TO MR. THURASSIGIAM

5 Do you agree that, for purposes of the interview, you were placed under  
6 oath to tell the truth?

7 MR. THURASSIGIAM TO JUDGE

8 Yes, Your Honor. Yes, I do, Your Honor.

9 JUDGE TO MR. THURASSIGIAM

10 And did you tell the truth to the officer?

11 MR. THURASSIGIAM TO JUDGE

12 Yes, Your Honor.

13 JUDGE TO MR. THURASSIGIAM

14 Sir, I have reviewed the paperwork from the credible fear interview. And  
15 I'm going to read to you now the officer's summary. So just listen closely as it is  
16 translated for you. It says you indicated that you are fearful of returning to Sri Lanka  
17 because you believe you will be beaten up and that you do not feel safe there.

18 INTERPRETER TO JUDGE

19 The interpreter --

20 JUDGE TO MR. THURASSIGIAM

21 And that you do not feel safe there. You testified that you were taken by  
22 men and beaten, and awoke one day --

23 MR. THURASSIGIAM TO JUDGE

24 (Untranslated.)

25 JUDGE TO MR. THURASSIGIAM

1                    Sir, just listen. And awoke one day later in the hospital. You do not know  
2 who these individuals are or why they beat you. You testified that you were working on  
3 your farm when these men came in a van, blindfolded you, and took you away and beat  
4 you. You do not know if the police or other government entities are willing or able to  
5 protect you because you did not report this incident to the authorities. Although you do  
6 not know who beat you or why you were beaten, you are fearful of returning to Sri  
7 Lanka. So, sir, is that a fair summary of what you told the officer?

8 MR. THURASSIGIAM TO JUDGE

9                    Yes, Your Honor. It's truth.

10 JUDGE TO MR. THURASSIGIAM

11                    Okay. Is there anything that you would like to say for purposes of this  
12 review here today?

13 MR. THURASSIGIAM TO JUDGE

14                    Yes. We would like to continue the review, sir.

15 JUDGE TO MR. THURASSIGIAM

16                    All right, sir. Well, I have read the officer's report, and I am required to  
17 review the interview that took place before the officer. It appears that you agree with  
18 the summary of the information, but I wanted to know if there was anything that you  
19 would like to tell me for purposes of the review.

20 MR. THURASSIGIAM TO JUDGE

21                    Yes.

22 JUDGE TO MR. THURASSIGIAM

23                    Go ahead, sir.

24 MR. THURASSIGIAM TO JUDGE

25                    If I go back to Sri Lanka, they will beat me and they would kill me. They

1 were, they were threatening me, they were beating me, and they, they told me that they  
2 would kill me. That's what they did to me. And I don't want to go to Sri Lanka.

3 JUDGE TO MR. THURASSIGIAM

4 Sir, the officer found you to be a credible applicant. So the officer found  
5 that when you related your story, you did so in a truthful manner. And when I review the  
6 interview, there is no reason to reach a different conclusion.

7 INTERPRETER TO JUDGE

8 Interpreter needs repetition, Your Honor.

9 JUDGE TO MR. THURASSIGIAM

10 There is no reason to reach a different conclusion. So in other words, you  
11 were found to be a credible witness. There's no reason to doubt your fear of return for  
12 the reasons you stated, or that you were beaten on this occasion. Being truthful,  
13 however, does not necessarily result in a positive determination in your case. In your  
14 case, the officer very specifically analyzed the information and found no testimony that  
15 you were or would be harmed on account of race, religion, nationality, membership in a  
16 particular social group, or political opinion. This does seem to follow the information  
17 that you did not know who these individuals were or why they were doing this to you.  
18 Also, with respect to the issue of torture, the officer, in part, noted that this does not  
19 appear to have been on the instigation of or by a public official or other person acting in  
20 an official capacity. The officer noted that you had not reported the incident to the  
21 police, so there was no basis to conclude that the police or authorities would acquiesce  
22 to any harm against you. And these are issues that relate directly to the officer's ability  
23 to find a positive credible fear in your case. As it did not appear that the information you  
24 gave offered any showing of past or future harm on account of one of the five grounds  
25 noted, and also, in part, because it did not appear that the authorities of your country



1 were in any way behind or would permit the harm against you were you to return, the  
2 officer had to reach the conclusion that you did not show a reasonable fear of  
3 persecution or torture. But if there was something more that you wanted to say about  
4 that reasoning, please do so, sir.

5 MR. THURASSIGIAM TO JUDGE

6 If they take me, they would, they, they can do whatever they want, but  
7 nobody would be able to find out. So please, I don't want to go back.

8 JUDGE TO MR. THURASSIGIAM

9 But, sir, about the specific reasoning that the officer included in the report  
10 and which I just summarized for you, did you have anything in particular to say about  
11 that reasoning?

12 MR. THURASSIGIAM TO JUDGE

13 In, in which one?

14 JUDGE TO MR. THURASSIGIAM

15 Sir, I explained to you the officer's reasoning. Was there anything further  
16 that you wanted to say about that?

17 MR. THURASSIGIAM TO JUDGE

18 They, they were telling me that they would shoot me and they would kill  
19 me. That's what they kept on repeating, and they, they were beating me. They were  
20 like in a -- they took almost five hours to threaten me and beat me. I found out only  
21 about that when I opened my eyes in the hospital.

22 JUDGE TO MR. THURASSIGIAM

23 You had indicated to the officer that you did not know who these  
24 individuals were or why they were doing this to you. Is that true?

25 MR. THURASSIGIAM TO JUDGE

1 Yes, sir.

2 JUDGE TO MR. THURASSIGIAM

3 And you never reported to the police, correct?

4 MR. THURASSIGIAM TO JUDGE

5 Yes, Your Honor. I did not.

6 JUDGE TO MR. THURASSIGIAM

7 Again, sir, I have no reason to doubt your subjective fear of return. But  
8 upon de novo review of the Asylum Officer's determination, I must find as follows. First,  
9 the Asylum Officer appears to have done a diligent job of attempting to obtain and  
10 record the relevant information. Second, the officer reached the proper conclusion in  
11 the context of controlling law for the reasons articulated. In other words, anyone could  
12 understand how difficult a situation this must have been for you and how you can still  
13 have fear. But considering all the circumstances, it does not qualify for a reasonable  
14 fear of persecution as defined under the law or of torture as defined under the law. So  
15 the decision of the Asylum Officer, finding no credible fear of persecution or torture,  
16 must be affirmed. And the record is returned to the Department of Homeland Security.  
17 Now, sir, you are being served with a copy of the decision. Regulations provide no  
18 appeal of the decision. However, you may request the Department of Homeland  
19 Security to reconsider its determination, and you are also encouraged to talk to the  
20 Department of Homeland Security about any other options that may be available to you  
21 in the discretion of the Department of Homeland Security, including humanitarian parole  
22 or deferred action of any removal order or any collateral visa. But as I indicated to you  
23 before, I do not have authority over that, only authority over the review. And it does  
24 appear that the officer reached the correct conclusion based on the information  
25 provided. Thank you to the respondent.

1 JUDGE TO INTERPRETER

2 To our interpreter.

3 JUDGE TO MR. WITNESSES

4 To Government Counsel present.

5 JUDGE TO OFFICER

6 And also to our officer.

7 MR. THURASSIGIAM TO JUDGE

8 I, I don't want Sri Lanka. I don't want Sri Lanka.

9 JUDGE TO MR. THURASSIGIAM

10 Yes, I understand, sir. You were provided with the opportunity to express  
11 your concerns of return to Sri Lanka. It does appear that subjectively you have a fear.  
12 But under the law, it does not qualify for further proceedings. Thank you, sir.

13 HEARING CLOSED

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CERTIFICATE PAGE

I hereby certify that the attached proceeding before JUDGE HENRY IPEMA, in  
the matter of:

VIJAYAKUMAR THURASSIGIAM

██████████ -

OTAY MESA, CALIFORNIA

was held as herein appears, and that this is the original transcript thereof for the file of  
the Executive Office for Immigration Review.

*Darryl Fabia*

\_\_\_\_\_  
DARRYL FABIA

DEPOSITION SERVICES, Inc.-2

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MARCH 28, 2018

(Completion Date)