

United States Court of Appeals
For the Eighth Circuit

No. 24-3033

Momodou Jatta

Petitioner

v.

Todd Blanche, Attorney General of the United States¹

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals

Submitted: December 18, 2025

Filed: October 16, 2026

Before LOKEN, L.R. SMITH, and KOBES, Circuit Judges.

LOKEN, Circuit Judge.

Petitioner Momodou Jatta, a forty-six year old native of The Gambia, entered the United States in August 2014 on a non-immigrant student visa to attend the Middlebury Institute of International Studies in California. He never attended

¹Todd Blanche is automatically substituted as respondent in place of Pamela Bondi pursuant to Federal Rule of Appellate Procedure 43(c)(2).

Middlebury Institute or any other educational institution. In December 2018, the Department of Homeland Security (DHS) commenced removal proceedings. Jatta applied for asylum and humanitarian asylum pursuant to 8 C.F.R. § 1208.13(a) and (b)(1)(iii), withholding of removal pursuant to 8 U.S.C. § 1231(b)(3)(A), and relief under the Convention Against Torture (CAT).

The Immigration Judge (IJ) denied the application after an evidentiary hearing, finding that DHS established that a fundamental change in circumstances made Jatta's fear of future persecution no longer well-founded and that relief was otherwise unavailable. On administrative appeal, the Board of Immigration Appeals (BIA) affirmed. Jatta petitions for judicial review, raising many issues. After careful review of the administrative record, we conclude that substantial evidence supports the agency decision, and we decline to consider arguments Jatta did not present to the BIA. See 8 U.S.C. § 1252(d)(1); Essel v. Garland, 89 F.4th 686, 691 (8th Cir. 2023). Accordingly, we deny the petition for review.

I. Background

Before leaving The Gambia, Jatta worked as a public administration professor at the University of The Gambia. During a lecture in April 2014, Jatta referenced a statement by U.S. President Barack Obama that African governments had strong leaders but not strong institutions. This triggered a heated debate between students, many of whom supported The Gambia's then-president Yahya Jammeh. A pro-government student accused Jatta of anti-government sentiment and reported him to government officials. That night, police entered Jatta's home and took him to a police unit, where he was stripped naked and beaten. Officers forced Jatta to get on his knees and hold heavy rocks, poured ice water over him, and beat him until he fell into a coma. He received medical treatment for his injuries while detained and was released on \$50,000 bail after 45 days.

Returning to his teaching position, Jatta received a letter from his department head advising him not to teach on matters related to politics or the current leadership situation and to leave the country if he wished to continue discussing political matters. During lectures that summer, unknown men walked around his classroom. Seeking to exit The Gambia, Jatta received a student visa and was admitted to a master's program at Middlebury Institute. His uncle promised to pay his tuition but was arrested and could no longer help. When advised he could not pay for his studies, Middlebury Institute terminated his student visa record. Jatta entered the United States without receiving a civil servant travel clearance from The Gambian government and did not enroll in another educational institution or seek a different type of visa. His wife remained in The Gambia.

On August 18, 2016, and January 9, 2017, The Gambia issued two bench warrants for Jatta's arrest for his unlawful departure from the country. On January 19, 2017, Adama Barrow was elected President of The Gambia. Jatta reported that, as late as 2017 or 2018, his wife continued to receive calls from unknown persons inquiring into his whereabouts.

The Attorney General has discretion to grant asylum to a "refugee," an alien who is unable or unwilling to return to his home country "because of persecution or a well-founded fear of persecution on account of . . . political opinion." 8 U.S.C. § 1101(a)(42). An applicant who demonstrates past persecution is entitled to a presumption of a well-founded fear of future persecution if he returns to the country. 8 C.F.R. § 208.13(b)(1). The government may rebut this presumption by proving by a preponderance of the evidence that "[t]here has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution[.]" 8 C.F.R. § 208.13(b)(1)(i)(A). This became the decisive issue at Jatta's hearing before the IJ, as the IJ found Jatta's testimony regarding his physical mistreatment and harassment as a professor in The Gambia credible and concluded that he experienced past harm rising to the level of persecution on account of his

political beliefs, entitling him to the presumption of a well-founded fear of future persecution.

Jatta presented a written statement from Hugette Monekosso, an expert in West African human rights, which cited instances in which the Barrow government had arrested protesters and opined that “[i]n this politically tense time, if [Jatta] is returned to The Gambia, he will be perceived in the eyes of the authorities as those who are coming back to quickly [lead] to heated debate among the population and on social media against the ruling government.” Monekosso acknowledged “[t]here have been some significant improvements in the country’s human rights record since President Adama Barrow came to power[.]”

The IJ reviewed country conditions reports supporting DHS’s contention that the Barrow administration was reversing the Jammeh regime’s repression. Specifically, a Human Rights Watch report stated:

President Barrow committed to investigate those most responsible for human rights abuses during the Jammeh era. During 2017, the government took meaningful steps to uncover past abuses, including by announcing that it would establish a truth, reconciliation, and reparations commission, beginning the trial of nine former intelligence officials for the April 2016 death of an opposition activist, and establishing a commission of inquiry into Jammeh’s abuse of public funds.

The IJ also reviewed a Congressional Research Service report that the Barrow administration had relaxed restrictions on speech and many journalists had returned to The Gambia from exile. There was other evidence that President Barrow restored to power government officials whom President Jammeh had arrested.

The IJ concluded the government rebutted the presumption that Jatta has a well-founded fear of future persecution if he returns to The Gambia. The IJ found Monekosso's evidence credible but insufficient to constitute a *future* threat of persecution. The IJ also found that, in light of President Barrow's liberalizing reforms, the evidence in the record does not suggest the Barrow administration would target Jatta for his statements about the Jammeh administration if he returns. The IJ denied Jatta's claims for asylum, humanitarian asylum, withholding of removal, and relief under the CAT and ordered him removed to The Gambia.

Jatta appealed to the BIA, challenging the IJ's finding that DHS established a fundamental change of circumstances because some of President Jammeh's top officials retained their positions after President Barrow's election and Jatta's arrest warrants remained outstanding. The BIA dismissed the appeal in a four-page decision filed September 6, 2024, upholding the IJ's finding that the specific steps taken by President Barrow's administration establish a fundamental change in circumstances and the IJ's "determination that the past persecution in this case was not so atrocious as to warrant a grant of humanitarian asylum." The arrest warrants were issued "prior to the inauguration of President Barrow," the BIA explained:

[T]he evidence indicates that since his inauguration, President Barrow's administration is actively working to investigate and make amends for former President Jammeh's abuses. Accordingly, we discern no clear error in the Immigration Judge's finding that the record does not establish that individuals who were perceived as political opponents of former President Jammeh continue to be targeted for persecution under President Barrow's administration. . . . We therefore affirm the Immigration Judge's determination that DHS has rebutted the presumption of future persecution by showing a fundamental change in circumstances. *See* 8 C.F.R. § 1208.13(b)(1)(i)-(ii).

II. Discussion

On appeal, Jatta argues that (1) in denying asylum, the IJ and BIA failed to give him the benefit of the presumption of a well-founded fear; (2) he merits a grant of humanitarian asylum; and alternatively (3) he merits a grant of withholding of removal and relief under the CAT.

Asylum. In reviewing a denial of asylum and withholding of removal, where “the BIA adopted the findings or the reasoning of the IJ,” we review both administrative decisions. Underlying factual findings are reviewed for “substantial support in the record.” Davila-Mejia v. Mukasey, 531 F.3d 624, 627 (8th Cir. 2008). “Administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” 8 U.S.C. § 1252(b)(4)(B). In reviewing the denial of a claim for asylum, this standard of review is difficult to overcome:

The BIA’s determination that [Jatta] was not eligible for asylum must be upheld if “supported by reasonable, substantial, and probative evidence on the record considered as a whole.” 8 U.S.C. § 1105a(a)(4). It can be reversed only if the evidence presented by [Jatta] was such that a reasonable factfinder *would have to conclude* that the requisite fear of persecution existed.

I.N.S. v. Elias-Zacarias, 502 U.S. 478, 481 (1992) (emphasis added, citation omitted); see Degbe v. Sessions, 899 F.3d 651, 658 (8th Cir. 2018). “To reverse the BIA finding,” the Court explained, “we must find that the evidence not only *supports* [Jatta’s] conclusion, but *compels* it.” Id. at 481 n.1 (emphasis in original). Here, we conclude the record does not compel us to disturb the BIA and IJ’s conclusion that the government rebutted the well-founded fear presumption.

The IJ and the BIA reviewed extensive reports from the United States government and non-governmental organization (NGO) sources regarding the improved political conditions in The Gambia after President Barrow's election that Jatta himself placed in the administrative record. "Proof of a new political climate" can establish a fundamental change in circumstances. Degbe, 899 F.3d at 658 (8th Cir. 2018) ("six straight elections [in Ghana] unsullied by serious violence"). In Bracic v. Holder, we upheld the BIA's finding that the government rebutted the presumption of future persecution based on his objection to the draft after the government of Yugoslavia dissolved and a new government took power and enacted a law permitting conscientious objection. 603 F.3d 1027, 1035 (8th Cir. 2010). Here, the substantial evidence of improved political conditions in The Gambia likewise supports the finding of changed circumstances. The new government's liberalizing reforms, removal of top Jammeh officials, institution of a truth and reconciliation commission, relaxation of speech suppression, and the return of many exiles are sufficient to rebut the presumption of a well-founded fear of future persecution.

Jatta's evidence to the contrary, including his outstanding arrest warrants and Monekusso's reporting of isolated incidents of protester arrests, do not compel a contrary conclusion. There is no evidence in the record suggesting a likelihood that the Barrow administration will subject Jatta to persecution for his criticism of the Jammeh regime, nor has he established that, if the government were to execute the old warrants, he would be subjected to torture or abuse. Substantial evidence supports the BIA and IJ's changed circumstances findings.

Humanitarian Asylum. The Attorney General's regulations provide that the BIA in its discretion may grant humanitarian asylum based on factors which include the "degree of harm suffered, the length of time over which the harm was inflicted, and evidence of psychological trauma resulting from the harm." Abrha v. Gonzales, 433 F.3d 1072, 1076 (8th Cir. 2006) (affirming denial of relief because "[h]er treatment does not require a discretionary grant of asylum, particularly since the

offending regime is no longer in power [in Ethiopia].”) Humanitarian asylum “is reserved for instances where an applicant has suffered persecution that was ‘particularly atrocious.’” Mambwe v. Holder, 572 F.3d 540, 549 (8th Cir. 2009) (citation omitted); see Francois v. I.N.S., 283 F.3d 926, 932 (8th Cir. 2002). We agree with the BIA that the physical mistreatment and harassment Jatta suffered while a professor at the University of the Gambia, while deplorable, “was not so atrocious as to warrant a grant of humanitarian asylum.” We thus affirm the denial of humanitarian asylum.

Withholding of Removal and Relief Under the CAT. Jatta further argues the IJ erred in denying his claims for withholding of removal and for relief under the CAT. If a petitioner has failed to establish eligibility for asylum, he “necessarily cannot meet the more rigorous standard of proof for withholding of removal.” Martin v. Barr, 916 F.3d 1141, 1145 (8th Cir. 2019) (quotation omitted). The standard for CAT relief is “more onerous than the asylum and withholding of removal standards.” Id. (quotation omitted). Jatta’s evidence supporting these two applications for relief is identical to the evidence he presented for his asylum claims. Because the government rebutted his claim of a well-founded fear of future persecution under the asylum standard, he also failed to satisfy the burdens for proving withholding of removal and eligibility for relief under the CAT.

Voluntary Departure and Burden-Shifting. Jatta argues the IJ erred for two reasons he did not present to the BIA: first, by not adjudicating his oral request for voluntary departure, see 8 U.S.C. § 1229c; and second, after determining that DHS had rebutted the presumption of a well-founded fear of future persecution, by not shifting to Jatta the burden to prove a well-founded fear of future persecution by other evidence, see Cooke v. Mukasey, 538 F.3d 899, 906 (8th Cir. 2008); Abrha, 433 F.3d at 1075-76. Though represented by counsel, Jatta did not present either argument to the BIA and therefore did not administratively exhaust those claims. See 8 U.S.C. § 1252(d)(1). As in Essel, 89 F.4th at 691, we will not address these arguments for

the first time in his petition for review. We also note that the IJ addressed all the evidence Jatta presented and concluded he “had not articulated another ground for his asylum claim[]” other than the past persecution he suffered. We reject Jatta’s response that “the IJ’s analysis was cursory and flawed.”

For the foregoing reasons, we deny the petition for review.
