

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
1 FEDERAL DRIVE, SUITE 1850
FORT SNELLING, MN 55111

[REDACTED]

In the matter of [REDACTED]

File [REDACTED]

DATE: Jul 19, 2018

Unable to forward - No address provided.

Attached is a copy of the decision of the Immigration Judge. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242b(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252b(c)(3) in deportation proceedings or section 240(b)(5)(C), 8 U.S.C. § 1229a(b)(5)(C) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

IMMIGRATION COURT
1 FEDERAL DRIVE, SUITE 1850
FORT SNELLING, MN 55111

Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA §242.

Attached is a copy of the decision of the immigration judge relating to a Credible Fear Review. This is a final order. No appeal is available.

Other: _____



COURT CLERK
IMMIGRATION COURT

cc: OFFICE OF THE PRINCIPAL LEGAL ADVISOR
1 FEDERAL DR., SUITE 1800
FORT SNELLING, MN, 55111

FF

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
FORT SNELLING, MINNESOTA**

File Number: [REDACTED]

Date: July 19, 2018

In the Matter of:

IN REMOVAL PROCEEDINGS

[REDACTED]
Respondent.

Charge: INA § 237(a)(1)(B) – an alien who after admission as a nonimmigrant under section 101(a)(15) of the Act remained in the United States for a time longer than permitted.

Applications: Asylum under INA § 208; Withholding of Removal under INA § 241(b)(3); and Relief under the Convention Against Torture.

ON BEHALF OF RESPONDENT:

ON BEHALF OF THE DHS:

Cassandra Bly, Esq.
Asst. Chief Counsel/ICE
1 Federal Dr., Suite 1800
Fort Snelling, MN 55111

WRITTEN DECISION OF THE IMMIGRATION JUDGE

I. Background

[REDACTED] is a 50-year-old man and a native and citizen of Ethiopia. (Ex. 2). Respondent was admitted to the United States on or about May 1, 2010, at Chicago, Illinois, as a nonimmigrant visitor for business with authorization to remain in the United States for a temporary period not to exceed July 31, 2010. (Ex. 1). Respondent remained in the United States beyond July 31, 2010 without authorization. *Id.* On July 19, 2011, the Department of Homeland Security (DHS) commenced removal proceedings by filing the Notice to Appear (NTA), charging Respondent as removable pursuant to the above-captioned charge of the Immigration and Nationality Act (“INA” or “the Act”). *Id.*

Respondent admitted the factual allegations and conceded the charge of removability. The Court sustained the charge. Respondent declined to designate a country of removal, and the Court designated Ethiopia, should such action become necessary. Respondent filed the above-listed applications for relief from removal. For the reasons below, the Court grants Respondent's application for asylum under INA § 208.

II. Evidence Presented

a. Testimony¹

i. *Respondent*

Respondent testified about his life in Ethiopia, the harm he experienced there, and his fears of returning.

Respondent stated he was born in Horo Guduro, Ethiopia, as were his mother and father. Respondent testified he has six siblings. His parents and siblings all live in Ethiopia, with the exception of one sibling, whose whereabouts are unknown to this date. Respondent is of the Oromo ethnicity and identifies as Christian. Respondent testified he is married and has four children. He testified his wife and children reside in Ethiopia.

Respondent stated he earned a Bachelor's degree in Agronomy from Alemaya University in July of 1988, after which he accepted a position as a government agronomist at the district level. Respondent testified that, in said position, he taught farmers best practices for increasing yield production. Respondent stated that in 1992 he was promoted to an agronomist position at the zonal level, in which he continued to help farmers increase production by teaching them about optimal fertilizer levels. Respondent testified that, as a result of his work, production yields were high and the lives of the farmers were significantly improved.

Respondent testified that in 1995 he was convinced by the *cadres*, agents of the government, to join the Oromo People's Democratic Organization (OPDO)—a coalition party of the Ethiopian People's Revolutionary Democratic Front (EPRDF)—effectively joining the ruling party. Respondent stated he did not voluntarily join the EPRDF, but did so out of fear of being fired from his job.

Respondent testified the Ethiopian government, which was ruled by the EPRDF, required farmers to use seeds and fertilizers purchased from abroad that were not good for crop production. Respondent also testified the government had a policy of selling farmers' lands to foreign investors, driving farmers off of their land—a policy he protested against. Respondent testified he espoused his opinion on the government's requirement that farmers

¹ This section is a summary of testimony and does not constitute a finding of fact.

use foreign-purchased fertilizers by way of his evaluations, in which he asserted his findings that neither the fertilizers nor the seeds purchased from abroad worked, as they did not germinate and instead died in the soil. Respondent believed his evaluations were viewed as anti-government. Respondent stated that, as a result his evaluations, he was called into the Oromia regional office on October 19, 1997, was accused of turning the farmers into rebels, and was warned to “stop what he was doing.”

Respondent testified that in 2001 he was demoted to an administrative position because of the work he did with farmers. Respondent stated the government justified the demotion by accusing him of making farmers rebel against the government. Respondent further stated that in the administrative position he organized offices and wrote reports. Respondent testified that during this time he went back to school to pursue an Masters of Business Administration (MBA) from Open University.

Respondent testified he was named Head of the Bureau of Agriculture for the Oromia regional state in October 2003. Respondent stated that even when Oromo individuals are promoted within the government they are still controlled by the EPRDF, and as such have no authority, and he testified that, although he was promoted, he did not gain any authority. He testified that, conversely, in his position as Head of the Bureau of Agriculture, the government could exercise greater control over him, as he was relocated to Addis Ababa. Respondent stated that in Addis Ababa he was separated from direct work with the farmers, and the government could more easily monitor him.

Respondent testified he completed his MBA from Open University in December of 2003. Respondent stated he was demoted to Deputy Head of the Bureau of Agriculture for the Oromia regional state in 2005, and was transferred to the position of Deputy Head of Capacity Building in 2006. Respondent testified he believes the transfer was a demotion. Respondent stated he was moved from an area that required agricultural expertise to an area in which he had no specialty. Respondent further stated he received a lower salary as Deputy Head of Capacity Building than that which he received as Deputy Head of the Bureau of Agriculture. Respondent stated that as Deputy Head of Capacity Building he studied the structure and population of Oromia. Respondent testified that in said role he expressed his opinions on the EPRDF’s land policy to the Oromia Regional President, which were perceived as anti-government. Respondent testified that on May [REDACTED] 2008, he was escorted by government security personnel to the regional office, where he was interrogated for five hours. Respondent testified he was asked whether he was loyal to the government, what opposition party he was associated with, and whether he was working for the government or an opposition party.

Respondent testified that, after this incident, he sought a way out of the government and into higher education. He testified that in November 2008 he began working as a lecturer at Adama University, where he taught classes in Business Administration. Respondent stated that on December [REDACTED] 2008, in preparation for the May 2010 elections, the Oromo

National Congress (ONC), led by Dr. [REDACTED] held a campaign meeting at the University, which Respondent attended. Respondent testified he attended the meeting because of the party's concern for Oromo people and the party's land policies. Respondent testified that three days after the meeting, fellow attendees were fired from their positions at the university and arrested. Respondent stated he was not removed from his job at the university. Respondent stated he began a Ph.D. program in Human Resource Management at Adama University in 2009. Respondent testified that on December [REDACTED] 2009, two members of the government security forces entered his residence, escorted him to the Internal Branch of Security, and interrogated him for seven hours regarding his affiliation with the ONC. Respondent testified he was warned by the security forces that if he did not stop affiliating with the ONC further action would be taken against him.

Respondent testified his younger brother, [REDACTED] an undergraduate student at Adama University, was abducted by government security forces on January [REDACTED] 2010. Respondent testified [REDACTED]'s whereabouts are still unknown. Respondent testified [REDACTED] was not involved with any opposition parties, and Respondent stated he believes the abduction was an effort to intimidate him.

Respondent stated he attended a three-day intensive training and orientation session, beginning on January [REDACTED] 2010. All staff at Adama University were required to attend. Respondent testified that during this training session, staff members were ordered to support the EPRDF in the elections taking place in May 2010. Respondent stated he would have been fired had he not attended the session. Respondent testified that on January [REDACTED] 2010, as he was walking home after having dinner with a friend, four members of the government security forces captured him and imprisoned him for a week. Respondent testified he was interrogated every day of his imprisonment regarding his loyalties to the EPRDF-led government and his affiliation with the ONC. Respondent testified security forces instructed him to support and vote for the EPRDF in the May 2010 elections, warned Respondent against telling anyone about his detention by the security forces, and threatened further action against Respondent if he did not comply with their demands. Respondent testified that, while he was imprisoned, he was told he had to help motivate others to support the EPRDF. Respondent also stated that, during his detention, he was beaten with an electrically charged iron bar until he fell unconscious. Respondent stated that when he regained consciousness, he realized his arm was broken. Respondent testified he did not seek medical treatment for the injuries he sustained because the clinics in Ethiopia are publicly controlled by the government, and he was told not to reveal information about his detention to anyone. Respondent testified that, instead, his wife administered culturally-based treatments, in which she massaged his wounds and broken arm, and wrapped his arm with cloth. He testified he has extensive scarring on his side and a limited range of motion on his left arm as a result of the beating. Respondent further testified that, while he was imprisoned, his email account and password, as well as his cellphone number, were taken by security forces so the government could monitor who he was communicating with. Respondent testified that, out of fear for his life, he agreed to

work for, support, and vote for the EPRDF. Respondent testified that, after his release, his activities were monitored by the government and he received writings in his mailbox stating, “Hope you learned something from this and know where you stand.” Respondent stated the government also subsequently took action against his family. Respondent stated his family was evicted from the rental house they had lived in for eight years. Respondent testified the eviction letter falsely stated Respondent’s family lacked a lease agreement. Respondent stated the eviction was a form of harassment by the government.

Respondent testified that, after his detention, he returned to work at the university and resumed working on his Ph.D. Respondent testified that in order to complete his Ph.D. program, he needed to write a thesis, which required him to study best practices in the United States. Respondent stated he was to pursue this study at Western Michigan University. Respondent testified that, before leaving for the United States, the Oromia Regional President gave him an ultimatum—to convince university students and the Oromo community in the United States of the good governance of the EPRDF or forfeit his Ph.D. Respondent testified he entered the United States on May [REDACTED], 2010, accompanied by [REDACTED], a member of the EPRDF who was sent by the EPRDF government to keep tabs on Respondent. Respondent testified that after completing his coursework at Western Michigan, at the end of July 2010, Mr. [REDACTED] went to Atlanta to convince the Oromo community there of the EPRDF’s good governance. Respondent stated he did not attempt to convince the Oromo community in the United States of the EPRDF’s good governance because he did not want to spread false information. Respondent testified, rather, that he decided to remain in the United States and apply for asylum. Respondent testified that Mr. [REDACTED] returned to Ethiopia, and that Respondent went to Minnesota after being told he would be supported by the Oromo community there.

Respondent testified that, following his decision to remain in the United States, he received emails detailing the misfortune that would await him if he returned to Ethiopia. Respondent testified he was told by a friend, [REDACTED], that Respondent’s family faced consequences as a result of his decision to remain in the United States, that the government was preparing false pretexts to imprison him or worse should he return to Ethiopia, and that he should remain in the United States. Respondent further testified his family was evicted more than three times between 2012 and 2014. Respondent stated the government spread false information about him, including rumors that he works with the ONC.

Respondent fears he will be arrested, imprisoned, and further harmed if he is to return to Ethiopia.

Respondent testified that, although his wife was able to provide him with their marriage certificate and the birth certificates of his biological children, [REDACTED] and [REDACTED], she did not provide an affidavit attesting to the injuries he sustained while imprisoned because he did not ask her to do so. Respondent stated he did not want to cause problems for her,

as she was on a government watch-list. Respondent testified further his wife sent the marriage and birth certificates via mail, which is not as closely monitored as email.

Respondent also testified that, although he worked for the EPRDF-led government, as of 2005 he no longer considered himself affiliated with the EPRDF. Respondent testified the 2005 election, specifically, triggered this shift. Respondent stated that during the 2005 election, the opposition party won a majority of the votes, and members of the opposition party were subsequently jailed by the EPRDF. Respondent testified that, following those events, he understood the EPRDF was seriously violating human rights, including the political rights of the Ethiopian people, and he therefore no longer associated with the EPRDF. Respondent testified further that, although he no longer considered himself to be affiliated with the EPRDF party, he never vocalized this sentiment.

ii. Dr. [REDACTED]

Respondent offered Dr. [REDACTED] as an expert on the psychological impacts and consequences of torture, and on PTSD and depression. According to the Board of Immigration Appeals (BIA), “[a]n expert witness is broadly defined as someone who is ‘qualified as an expert by knowledge, skill, experience, training, or education’ ” and who has “ ‘scientific, technical, or other specialized knowledge [that] will assist the trier of fact to understand the evidence or to determine a fact in issue.’ ” Matter of D-R-, 25 I&N Dec. 445, 459 (BIA 2011) (quoting Fed. R. Evid. 702).

Dr. [REDACTED] received a Bachelor of Science in Psychology from the State University New York-Oswego and a Doctor of Psychology degree from the Minnesota School of Professional Psychology. See Ex. 10. Dr. [REDACTED] is currently a psychotherapist at the Center for Victims of Torture, and has been for twelve years. Id. Dr. [REDACTED] has provided torture treatment trainings to local community organization and consultation services to organizations and individuals working with refugees and torture survivors. She has also collaborated on articles for publication on community work with refugees and torture survivors. Id. Additionally, Dr. [REDACTED] testified she has served as an expert witness twice before in immigration proceedings.

The Court found Dr. [REDACTED]’s testimony to be of assistance in understanding the evidence presented. The DHS did not oppose Dr. [REDACTED]’s qualification as an expert witness and the Court qualified her an expert on the psychological impacts and consequences of torture, and on PTSD and depression, based on her education, experience, and area of expertise. See Matter of D-R-, 25 I&N Dec. at 459 (quoting Fed. R. Evid. 702).

Dr. [REDACTED] testified about the psychological consequences and impact of torture, PTSD, and depression and her treatment and evaluation of Respondent. Dr. [REDACTED] stated she began treating Respondent weekly in February 2011. Dr. [REDACTED] testified Respondent met the DSM4 Criteria for PTSD at the time, as he exhibited symptoms common for torture

survivors, namely re-experience and avoidance. Dr. [REDACTED] testified Respondent's nightmares and flashbacks were examples of re-experience and his tendency to avoid simple questions about himself to keep from remembering the torture he endured was an example of avoidance. Dr. [REDACTED] also testified Respondent met the criteria for major depressive disorder, as he experienced "sad mood" nearly every day for most of the day, and experienced little to no pleasure in daily life.

Dr. [REDACTED] stated that, while Respondent was initially diagnosed with severe depression, he no longer meets the criteria for PTSD or severe depression, as he is no longer experiencing nightmares and is beginning to feel safe. Dr. [REDACTED] testified Respondent's condition is currently classified as major depressive disorder. Dr. [REDACTED] further testified Respondent's psychological injuries are consistent with torture. She testified the Center for Victims of Torture continually assesses for malingering, and the Center does not believe Respondent is malingering.

iii. Dr. [REDACTED]

Respondent offered Dr. [REDACTED] as an expert on the country conditions of Ethiopia. Dr. [REDACTED] was born in Addis Ababa and has lived in Ethiopia a total of fifteen years. See Ex. 4 at 32. Dr. [REDACTED] earned his Ph.D. in History at the University of Chicago and is currently a professor of African History at Valparaiso University. Id at 50. Dr. [REDACTED] has published extensively on the Horn of Africa, particularly Ethiopia and Eritrea, and his publications since 2014 have focused almost exclusively on Ethiopian history and the 2015 elections in Ethiopia. Id at 32. Dr. [REDACTED] testified he has previously been qualified as an expert in immigration proceedings, and has testified in approximately thirty to forty immigration proceedings. The Immigration Judge found Dr. [REDACTED]'s testimony to be of assistance in understanding the evidence presented. The DHS did not oppose Dr. [REDACTED]'s qualification as an expert witness and the Court qualified him as an expert on the country conditions of Ethiopia, based on his education, extensive experience, relevant area of expertise and publications in the relevant field. See Ex. 4 at 32-54; see Matter of D-R, 25 I&N Dec. at 459 (quoting Fed. R. Evid. 702).

Dr. [REDACTED] testified about the importance of agriculture to the Ethiopian economy, Ethiopia's political history, and the nation's current political situation as it relates to Respondent. Dr. [REDACTED] testified ethnicity alone is not a basis upon which the Ethiopian government targets individuals. He stated that, rather, minority ethnicity combined with political activity may warrant targeting by the government. He testified that the EPRDF considers political activity to include indirect support of opposition parties or taking a stance against government policy. Dr. [REDACTED] stated technocrats in Ethiopia tend to conflict with the Ethiopian government because of scientifically-reasoned disagreements with government policies.

Dr. [REDACTED] testified that only one to two percent of the Ethiopian population has a college degree. He explained that because the quality of higher education in Ethiopia is lacking, students commonly have to seek additional training abroad. He further added that as a result of the dearth of college-educated Ethiopians, the Ethiopian government overlooks many things, including an individual's political opinion and activities in opposition to the government, when allowing students to study abroad and when hiring college-educated individuals.

Dr. [REDACTED] testified that if an individual who reaches a high position within the government "falls out" with the government for policy reasons, the individual is allowed to continue to work within the government, but is demoted. Dr. [REDACTED] testified Respondent's transfers between multiple positions within the government is demonstrative of "gizot," a long-standing practice of punishment in the form of transfers and demotions, which dates back two to three hundred years. Dr. [REDACTED] also testified the brief imprisonment of government employees is a tactic the ruling party uses to make government employees acquiescent.

b. Documentation

All admitted evidence identified below has been carefully considered in its entirety regardless of whether specifically mentioned in the text of this decision.

- Ex. 1: Notice to Appear, dated July 6, 2011, with a certificate of service for regular mail service dated July 6, 2011, filed July 19, 2011, marked October 12, 2011.
- Ex. 2: Respondent's referred Form I-589, Application for Asylum, Withholding of Removal, and relief under the Convention Against Torture, reflecting a date in the upper right-hand corner of November 18, 2010, untabbed and unpaginated.
- Ex. 2-a: Respondent's photographs of scars on his side, showing his face, received November 18, 2010, and marked into evidence May 1, 2018.
- Ex. 2-b: Respondent's photographs of scars on his side, not showing his face, received November 18, 2010, and marked into evidence May 1, 2018.
- Ex. 2-c: Respondent's submission of Correspondence Regarding Eviction, received November 18, 2010, and marked into evidence May 1, 2018.
- Ex. 3: Respondent's tick-marked Form I-589, received October 12, 2011.
- Ex. 4: Respondent's Documents in Support, Tabbed A-M, 193 pages, filed March 17, 2014.
- Ex. 5: Respondent's redlined, tick-marked Form I-589, filed March 17, 2014.
- Ex. 6: NONE
- Ex. 7: Respondent's Motion for Earlier Hearing Date, filed July 22, 2015.
- Ex. 8: Order of the Immigration Judge dated August 3, 2015, denying Respondent's Motion for Earlier Hearing Date and noting, "This case is not a priority for the Immigration Court. As such, no earlier hearing dates are available. Even if an

earlier hearing date were available the case would most likely be bumped for a priority case.”

- Ex. 9: Respondent’s Motion to Permit Telephonic Testimony of Dr. [REDACTED], filed April 16, 2018.
- Ex. 10: Respondent’s Witness List, filed April 16, 2018.
- Ex. 11: Respondent’s Exhibits in Support, Tabbed A-G, 72 pages, filed April 16, 2018.
- Ex. 12: Respondent’s Redlined, tick-marked Form I-589, filed April 16, 2018.
- Ex. 13: Order of the Immigration Judge dated April 27, 2018 granting Respondent’s Motion to Permit Telephonic Testimony of Dr. [REDACTED].
- Ex. 14: Order of the Immigration Judge to Note and Mark Exhibits, dated May 1, 2018.
- Ex. 15: Respondent’s Motion to Accept Untimely Filing of Exhibits, received May 1, 2018.
- Ex. 16: Respondent’s Cover letter to DHS and Exhibits Tabbed A-J, 70 pages, received May 1, 2018.
- Ex. 17: Order of the Immigration Judge dated May 11, 2018, granting Respondent’s Motion to Accept Untimely Filing of Exhibits (unsigned order marked for ID only on May 1, 2018).
- Ex. 18: U.S. Department of State Country Report on Human Rights Practices: Ethiopia 2017, received May 1, 2018.
- Ex. 19: Respondent’s Unopposed Motion for Dr. [REDACTED] to Appear and Testify by Telephone, filed May 11, 2018.
- Ex. 20: Order of the Immigration Judge dated May 8, 2018 granting Respondent’s Unopposed Motion for Dr. [REDACTED] and Testify by Telephone.
- Ex. 21: Respondent’s Unopposed Motion for Acceptance of Untimely Filing of Supplemental Affidavit of Dr. [REDACTED] filed May 9, 2018.
- Ex. 22: Order of the Immigration Judge dated May 11, 2018 granting Respondent’s Unopposed Motion for Acceptance of Untimely Filing of Supplemental Affidavit of Dr. [REDACTED].
- Ex. 23: DHS’s Written Closing Arguments, filed May 25, 2018.²
- Ex. 24: Respondent’s Written Closing Statement, filed May 25, 2018.

III. Credibility

It is the applicant’s burden to satisfy the Immigration Judge (IJ) that his testimony is credible. See Fesehaye v. Holder, 607 F.3d 523, 526 (8th Cir. 2010). As Respondent’s application was filed after May 11, 2005, the credibility provisions of the REAL ID Act govern. INA § 208(b)(1)(B); INA § 241(b)(3)(C). Consistent with the REAL ID Act, the following factors may be considered in assessing an applicant’s credibility: demeanor, candor, responsiveness, inherent plausibility of the claim, the consistency between oral and

² The Court enters the following exhibits into evidence through this opinion: Ex. 23 and Ex. 24.

written statements, the internal consistency of such statements, the consistency of such statements with evidence of record, and any inaccuracy or falsehood in such statements, whether or not such inaccuracy or falsehood goes to the heart of the applicant's claim. INA § 208(b)(1)(B)(iii); see also Matter of J-Y-C-, 24 I&N Dec. 260, 262-63 (BIA 2007). The testimony of the applicant, if credible, is sufficient to sustain the burden of proof without corroboration. 8 C.F.R. § 1208.13(a). To be credible, an applicant's testimony must be believable, consistent, and sufficiently detailed to provide a plausible and coherent account of the basis of his fear. 8 C.F.R. § 1208.13(a). In determining whether the applicant has met his burden, the IJ may weigh credible testimony along with other evidence of record. Where the IJ determines that the applicant should provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence. INA § 208(b)(1)(B)(ii).

Respondent was responsive and candid. Respondent's testimony was largely consistent with his prior written statements and applications. See Ex. 2; Ex 3; Ex. 4 at 1-28; Ex. 5; Ex. 12; Ex. 16 at 4-14. Respondent gave an account that was internally consistent and inherently plausible. In addition, Respondent's testimony is generally consistent with the evidence in the record. See Ex. 2; Ex. 2-a; Ex. 2-b; Ex. 2-c; Ex. 4; Ex. 11; Ex. 16 at 1-3, 29-72; Ex. 18; Ex. 21; Ex 24. Therefore, the Court finds Respondent credible.³

The court also finds Respondent's expert witnesses, Dr. [REDACTED] and Dr. [REDACTED], to be credible. Based on their extensive credentials, the Court found both witnesses to be experts, Dr. [REDACTED] as to the psychological impacts and consequences of torture, and as to PTSD and depression, and Dr. [REDACTED] as to the country conditions of Ethiopia See Ex. 10. Both witnesses were responsive and candid. Their testimony was largely consistent with Respondent's prior written statements and the other evidence in the record. See Ex. 2; Ex. 2-a; Ex. 2-b; Ex. 2-c; Ex 3; Ex. 4; Ex. 5; Ex. 11; Ex. 12; Ex. 16; Ex. 18; Ex. 21; Ex. 24. Both expert witnesses' accounts were internally consistent and

³ The Court notes the DHS's concerns regarding Respondent's failure to provide particular pieces of corroborating evidence related to his government employment, the harm he claims to have suffered at the hands of the Ethiopian government, and the medical treatment his wife administered after the fact. Specifically, the DHS asserts it is reasonable to expect Respondent to produce his government ID card, as well as an affidavit from his wife attesting to the injuries Respondent suffered at the hands of the Ethiopian government and her treatment of these injuries. Respondent testified his government ID card is in Ethiopia, and he stated his wife did not provide an affidavit supporting his claims because he did not ask her to, as she is on a government watch-list. The Court accepts Respondent's explanations as plausible. While an affidavit from Respondent's wife may have been beneficial to his case, the absence of such affidavit it is not fatal to his claim. Respondent submitted pictures of the scars that resulted from his injuries. See Ex. 2-a and 2-b. While the Court acknowledges the concerns raised by the DHS, based on Respondent's overall consistency, in both his testimony and prior written statements, as well as his candor and responsiveness, and in light of the inherent plausibility of Respondent's claim and its consistency with country condition reports, and the photographs submitted with the initial asylum application, the Court accepts Respondent's explanations as to why he was unable to provide the aforementioned corroborating evidence.

inherently plausible. Therefore, the Court finds Dr. [REDACTED] and Dr. [REDACTED] to be credible.

IV. Relief

a. Asylum

i. Legal Standard

The applicant carries the initial burdens of proof and persuasion for establishing his eligibility for asylum. INA § 208(b)(1)(B); 8 C.F.R. § 1208.13(a). To establish eligibility, an applicant must meet the definition of a “refugee,” defined as an individual who is unwilling or unable to return to his country of nationality because of past persecution or because he has a well-founded fear of future persecution on account of his race, religion, nationality, membership in a particular social group, or political opinion. INA § 101(a)(42)(A); 8 C.F.R. § 1208.13(a).

If the applicant can establish that he suffered past persecution, then he is entitled to a rebuttable presumption that his fear of future persecution is “well-founded.” 8 C.F.R. § 1208.13(b)(1). The government can rebut this presumption if a preponderance of the evidence shows either: (1) that there has been a “fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution” in his native country; or (2) that he “could avoid persecution by relocating to another part” of the country and that “it would be reasonable to expect the applicant to do so.” 8 C.F.R. § 1208.13(b)(1)(i)-(ii); see also *Bushira v. Gonzales*, 442 F.3d 626, 631 (8th Cir. 2006); *Matter of D-I-M-*, 24 I&N Dec. 448, 450-51 (BIA 2008).

Asylum, unlike withholding of removal, may be denied in the exercise of discretion to an alien who establishes statutory eligibility for relief. See *INS v. Cardoza-Fonseca*, 480 U.S. 421, 441 (1987); *Matter of Mogharrabi*, 19 I&N Dec. 439, 447 (BIA 1987).

ii. Analysis

1. Past Persecution

a. The harm rose to the level of persecution.

An applicant claiming past persecution must show the harm rose to the level of persecution. INA § 101(a)(42)(A); 8 C.F.R. § 1208.13(a). The Eighth Circuit has defined past persecution as “the infliction or threat of death, torture, or injury to one’s person or freedom on account of race, religion, nationality, membership in a particular social group, or political opinion.” *Litvinov v. Holder*, 605 F.3d 548, 553 (8th Cir. 2010) (quoting *Davila-Mejia v. Mukasey*, 531 F.3d 624, 628 (8th Cir. 2008)). Persecution within the

meaning of the INA “does not encompass all treatment that society regards as unfair, unjust, or even unlawful or unconstitutional.” Matter of V-T-S-, 21 I&N Dec. 792, 798 (BIA 1997). Low-level intimidation and harassment alone do not rise to the level of persecution, Alavez-Hernandez v. Holder, 714 F.3d 1063, 1067 (8th Cir. 2013), nor does harm arising from general conditions such as anarchy, civil war, or mob violence. Agha v. Holder, 743 F.3d 609, 617 (8th Cir. 2014). Even minor beatings or limited detentions do not usually rise to the level of past persecution. Bhosale v. Mukasey, 549 F.3d 732, 735 (8th Cir. 2008); Kondakova v. Ashcroft, 383 F.3d 792, 797 (8th Cir. 2004). For example, the Eighth Circuit has held that “minor beatings and brief detentions, even detentions lasting two to three days, do not amount to political persecution, even if government officials are motivated by political animus.” Eusebio v. Ashcroft, 361 F.3d 1088, 1090 (8th Cir. 2004). Rather, “persecution is an extreme concept.” Litvinov, 605 F.3d at 553. Non-physical harm or economic discrimination can be persecution if the effects are extreme. See Matter of T-Z-, 24 I&N Dec. 163, 171-173 (BIA 2007); Matter of Acosta, 19 I&N Dec. 211, 222 (BIA 1985), overruled in part on other grounds. Persecution is also treated cumulatively. See Ngengwe v. Mukasey, 543 F.3d 1029, 1036 (8th Cir. 2008); Matter of O-Z- & I-Z-, 22 I&N Dec. 23, 25-26 (BIA 1998).

The Court finds the harm Respondent suffered rises to the level of persecution. See Litvinov, 605 F.3d at 553. Respondent testified he was detained by government officials and interrogated four times: once in 1997, a second time on May [REDACTED] 2008 (for five hours), a third time on December [REDACTED] 2009 (for seven hours) and a fourth time in January 2010 (for one week). During Respondent’s January 2010 detention, Respondent was interrogated from one to three hours each day. Respondent testified that, during his 2010 detention, he was beaten with an electrically charged iron bar until he fell unconscious. Respondent testified further that when he regained consciousness his arm was broken.⁴ Respondent’s affidavit reflects a very similar account of events. See Ex. 2. Respondent suffered significant and lasting scarring as a result of this incident. See Ex. 2-a; Ex. 2-b. Respondent’s week-long detention and beating by government forces in January 2010 does not constitute a “minor beating and brief detention.” Bhosale v. Mukasey, 549 F.3d at 735. Rather, it constitutes a severe beating. See Matter of D-V-, 21 I&N Dec. 77, 78 (BIA 1993). The Court also considers Dr. [REDACTED]’s expert testimony as to Respondent’s lasting psychological injuries, the psychological impacts and consequences of torture, and on PTSD and depression. The Court gives the expert’s testimony great weight. Therefore, the Court concludes that Respondent suffered extreme harm that rises to the level of persecution as envisioned by the Act. See Eusebio, 361 F.3d at 1090.

⁴ While the Court notes that Respondent testified he did not seek medical attention for his injuries, the Court accepts Respondent’s explanation that he did not seek medical treatment at a public clinic because he was warned by the government security forces to not reveal his detention and beating to anyone, and so he was instead treated by his wife at home.

b. The harm was on account of a protected ground.

In order to qualify for asylum, the persecution in question must be on account of at least one of five specially protected grounds: race, religion, nationality, membership in a particular social group, or political opinion. INA § 101(a)(42)(A). Although the protected ground does not need to be the sole reason for the persecution, it must be at least one central reason. Matter of J-B-N- & S-M-, 24 I&N Dec. 208, 212-14 (BIA 2007). “It is also important to consider whether an act of violence is an isolated occurrence, or part of a continuing effort to persecute on the basis of a factor enumerated in the statute.” Ngure v. Ashcroft, 367 F.3d 975, 990 (8th Cir. 2004). In addition, the applicant need not actually possess the characteristic that the persecutor is targeting, as long as the persecutor has or will impute that characteristic to the applicant. Id. at 211. In other words, if a persecutor believes that the applicant holds a particular political belief, the applicant is not ineligible for asylum simply because the persecutor is mistaken in this belief.

Respondent claims he suffered past persecution on account of his political opinion.⁵ He testified that during each detention and interrogation by government security forces he was questioned regarding his loyalty to the EPRDF government and his affiliation with the ONC, an opposition party. Respondent testified that during his first detention by government security forces in 1997, he was accused of inciting the farmers to rebel and warned to stop what he was doing. Respondent testified that during his second detention and interrogation by government security forces on May [REDACTED] 2008, he was repeatedly asked if he was loyal to the EPRDF government, what opposition party he was associated with, and whether he was working for the government or an opposition party. He testified that during the third detention and interrogation by government security forces on December [REDACTED] 2009, he was interrogated as to his affiliation with the ONC and warned that further action would be taken against him if he did not stop affiliating with the ONC. During his fourth detention, beginning January [REDACTED] 2010, security forces beat Respondent, accused him of being anti-government, and accused him of supporting the ONC. The security forces also demanded he support and vote for the EPRDF, and that he motivate others to do so as well. The security forces released Respondent only after he agreed to comply with their demands. After Respondent was released, he received writings in his mailbox stating, “Hope you learned something from this and know where you stand.” Altogether, the Court finds this demonstrates that the harm Respondent suffered was “part of a continuing effort to persecute on the basis of a factor enumerated in the statute,” and that Respondent’s actual and perceived political opinion was one central reason why he was harmed. See Ngure, 367 F.3d at 990; J-B-N- & S-M-, 24 I&N Dec. at 212-14. Therefore, the Court concludes that the harm Respondent suffered was on account of a protected ground.

⁵ Respondent also claims persecution on account of his race. See Ex. 2; Ex. 3; Ex. 5; Ex. 12. Because the court is granting asylum based on his political opinion, the Court need not address Respondent’s claim based on race. However, the Court notes that Respondent’s expert witness, Dr. [REDACTED] stated ethnicity alone is not a basis upon which the EPRDF targets individuals. “If ethnicity alone was the pretext for persecution, then the Tigreans (6.1%) would be persecuting 93.9% of the Ethiopian population.” See Ex. 21 at 3.

c. The government is unable or unwilling to control the persecutors.

To qualify for asylum purposes, the persecution must be inflicted by the government of a country or by persons or an organization that the government is unwilling or unable to control. Quinteros v. Holder, 707 F.3d 1006, 1009 (8th Cir. 2013). In this case, Respondent alleges that the harm he suffered was inflicted by Ethiopian security forces. Respondent testified that on three occasions government security forces apprehended, detained and interrogated him regarding his political affiliation. He testified that on one such occasion government security forces beat him until he lost consciousness; they broke his arm. Respondent testified that on another occasion the Oromia Regional President interrogated him regarding his political affiliation. As the harm Respondent suffered was inflicted by government actors, Respondent has established that the Ethiopian government was the persecutor. This is consistent with the country condition reports in the record. The evidence shows “[t]he most significant human rights issues included... inhuman or degrading treatment by security forces... arbitrary arrest and detention by security forces.” Ex. 18 at 1. State of emergency (SOE) regulations allowed law enforcement officers to arrest and detain individuals without a court warrant. Id. at 6. There were reports of thousands of arbitrary arrests and detentions related to the SOE targeting protesters, professors, university students, musicians, businesspersons, health workers, journalists, children, and others. Id. “[T]housands more Amhara and Oromos remain in detention without charge, and politically motivated trials of opposition leaders, artists, journalists, students and others continue.” See Ex. 21, Tab A, at 5. There were also reports of authorities subjecting detainees to torture and other abuse while in detention in order to obtain information or confessions. See Ex. 18 at 11. Furthermore, Respondent’s account of his beating by government forces corresponds with descriptions of the methods of torture employed by government forces contained within the country condition reports. Id. at 3.

As Respondent has met his burden to establish that the harm he suffered rose to the level of persecution, the harm was on account of a statutorily protected ground, and the government was the persecutor, the Court finds Respondent has established that he suffered past persecution.

2. Well-Founded Fear of Future Persecution

Because Respondent has established that he suffered past persecution, he is entitled to a rebuttable presumption that his fear of future persecution is “well-founded.” 8 C.F.R. § 1208.13(b)(1). To overcome this presumption, the DHS bears the burden of showing, by a preponderance of the evidence, either that there has been a “fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution” in his native country, or that he “could avoid persecution by relocating to another part” of the country and that “it would be reasonable to expect the applicant to do

so.” 8 C.F.R. 1208.13(b)(1)(i)-(ii). See also Bushira, 442 F.3d at 631; D-I-M, 24 I&N Dec. at 450-51.

The Court concludes the DHS has not rebutted the presumption of past persecution. As Respondent fears persecution by the government of Ethiopia, he would not be able to avoid persecution by relocating to another part of the country. 8 C.F.R. § 1208.13(b)(1)(i)(B). Additionally, evidence in the record does not demonstrate that there has been a fundamental change in circumstances such that Respondent no longer has a well-founded fear of persecution. 8 C.F.R. § 1208.13(b)(1)(i)(A). The evidence in the record demonstrates the government of Ethiopia widely uses detention and physical abuse to silence political dissent. See Ex. 18 at 9, 11, 12, 18, 23, 24. In October 2016, the government declared a state of emergency, which allowed the government to further restrict political discourse and use abusive tactics, including arbitrary detention, against political opponents. See id. at 1, 6, 9, 12, 14, 18-20, 24. Moreover, Ethiopia has enacted recent laws to repress human rights, including the Charities and Societies Proclamation and the Anti-Terrorism Proclamation, which have reduced the freedom of association and the right to engage in unrestricted peaceful political activity, and have allowed for arbitrary and prolonged detention of political opponents. See id. at 8, 20. The evidence demonstrates further that the government arrests and prosecutes political opposition members under allegations of terrorism. See id. at 11-12, 19, 24. The evidence also shows government officials regularly torture and threaten political detainees to quell opposition, obtain confessions or signed statements, and gather information. See id. at 3, 11. Furthermore, country condition reports demonstrate the Ethiopian government conducts surveillance of perceived political opponents, restricts media access, and uses excessive force in response to peaceful protests. See id. at 2, 7, 13, 16-18. Most recently, Ethiopian security forces killed hundreds of people in largely peaceful protests in the Oromia and Amhara regions in 2016. Id. at 7.

The Court recognizes that there has been a recent change in leadership in the Ethiopian government. Dr. Abiy Ahmed, who is of Oromo ethnicity, was elected Prime Minister of Ethiopia on March 27, 2018. See Ex. 21 at 4. Respondent’s expert witness, Dr. [REDACTED], in whose testimony, affidavit, and supplemental affidavit the Court places great weight, stated he believes the election of Dr. Ahmed is a positive step that validates the Oromo population in Ethiopia. Id. at 4. However, Dr. [REDACTED] also stated Dr. Ahmed will likely remain under the control of the Tigrean-dominated EPRDF. Id. Dr. [REDACTED]’s opinion is that, while Dr. Ahmed is of Oromo ethnicity, he is an EPRDF party *cadre* – an agent of the government – as demonstrated by his development of cyber espionage while he was director of the EPRDF’s Information Network and Security Agency, the main function of which is to spy on Ethiopians. Id. at 5. As noted above, human rights abuses against members of opposition parties and those perceived to be members of opposition parties persist, and the Ethiopian government continues to arbitrarily detain, threaten, and torture political dissidents. See Ex. 18 at 3. In total, the evidence shows the election of Dr. Ahmed as the Prime Minister of Ethiopia does not constitute a “fundamental change in

circumstances” such that Respondent would no longer have a well-founded fear of persecution by the EPRDF government in Ethiopia. 8 C.F.R. 1208.13(b)(1)(i)-(ii).

Therefore, the Court finds the DHS has not overcome the presumption that Respondent has a well-founded fear of persecution.

3. Discretion

An applicant who establishes statutory eligibility for relief must also establish that he merits asylum as a matter of discretion. See Cardoza-Fonseca, 480 U.S. at 441; Matter of Mogharrabi, 19 I&N Dec. 439, 447 (BIA 1987). The Court finds Respondent merits asylum as a matter of discretion. He has no criminal history or other negative factors. See Matter of Pula, 19 I&N Dec. 467, 474 (BIA 1987) (“The danger of persecution should generally outweigh all but the most egregious adverse factors”).

In light of all of the above, the Court concludes Respondent merits a grant of asylum under INA § 208.

b. Withholding of Removal

Because the Court is granting Respondent’s asylum application under INA § 208, the Court does not reach the issue of withholding of removal under INA § 241(b)(3).

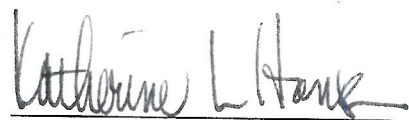
c. Convention Against Torture

Because the Court is granting Respondent’s asylum application under INA § 208, the Court does not reach the issue of relief under Article III of the Convention Against Torture.

Accordingly, the Court enters the following order:

ORDER

IT IS HEREBY ORDERED that Respondent’s application for asylum under INA § 208 be **GRANTED**.



Katherine L. Hansen
Immigration Judge