

Case No. 02-71311

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

HARPAL SINGH AND RAJWINDER KAUR,

Petitioners

-vs-

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

On Petition for Review of a Decision of
The Board of Immigration Appeals

**MEMORANDUM OF LAW OF AMICUS CURIAE
IN SUPPORT OF PETITIONERS**

KROVATIN & ASSOCIATES, LLC
744 Broad Street, Suite 1903
Newark, New Jersey 07102
(973) 424-9777
Attorneys for *Amicus Curiae*,
The Sikh Coalition

TABLE OF CONTENTS

PAGE

IDENTITY AND INTEREST OF *AMICUS CURIAE* 1

INTRODUCTION AND SUMMARY OF ARGUMENT 3

ARGUMENT 7

POINT ONE

THE BOARD ERRED IN ITS FINDING THAT THERE ARE REASONABLE GROUNDS FOR REGARDING MR. CHEEMA AND MS. KAUR AS A DANGER TO THE SECURITY OF THE UNITED STATES 9

- A. **The Board applied an arbitrary standard in determining that there are reasonable grounds for regarding the Petitioners as a danger to the security of the United States**..... 9

- B. **Even under the Board’s arbitrary standard, there are not reasonable grounds for regarding Mr. Cheema and Ms. Kaur as a danger to the security of the United States** 17

POINT TWO

THERE ARE NOT REASONABLE GROUNDS TO REGARD MR. CHEEMA AND MS. KAUR AS A DANGER TO THE SECURITY OF THE STATES 19

- A. **The Immigration Judge applied the correct standard in determining whether there are reasonable grounds to regard Petitioners as a danger to the security of the United States**..... 19

- B. **Under the Barapind standard, there are not reasonable grounds for regarding Petitioners as a danger to the security of the United States** 20

Conclusion23

This brief is submitted by the Sikh Coalition, as *amicus curiae* in support of the Petitioners.

IDENTITY AND INTEREST OF AMICUS CURIAE

The Sikh Coalition is a national not-for-profit organization created to advance the protection of the civil and human rights of all citizens, promote the Sikh identity, and communicate the collective interests of Sikhs to civil society. The Sikh Coalition pursues a broad range of proactive engagements in various forums to address the need to educate the broader community about the Sikh religion and Sikh community. The Sikh Coalition has a number of programs and activities designed to further the development of the Sikh community in a variety of areas, including community relations, educational affairs, human rights and civil rights protections, women's programs, legislative affairs, and youth outreach.

The Sikh Coalition's interest in this case is based on the vital concern of the Sikh community about the potential impact of the decision of the United States Board of Immigration Appeals (the "Board") to deny the request of Harpal Singh Cheema ("Cheema") and his wife, Rajwinder Kaur ("Kaur"), for asylum and withholding of deportation to the Republic of India ("India"). The Sikh Coalition is also vitally concerned about the possible adverse impact the outcome of this case may have on members of the Sikh

community and other persons that may be situated similarly to the Petitioners.

In addition, the Sikh Coalition and members of the Sikh community are concerned about the proper definition of what activities may permit the Attorney General and federal courts in this country to conclude that there are reasonable grounds to regard an alien as a danger to the security of the United States. The Sikh Coalition is concerned that the Board's decision, if upheld, will have a harmful and fundamentally unfair impact upon the Petitioners as well as other similarly situated members of the Sikh community who may be forced to return to India, despite a finding that such persons have a well-founded fear of persecution on account of their religion or political opinion.

The Sikh Coalition has filed a Motion for Leave to File Brief of *Amicus Curiae*, along with this Brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Petition before the Court arises from the tragic story of an individual, Harpal Singh Cheema, who has suffered through a history of political persecution, illegal detentions and physical torture by officials and agents of the Indian government, on account of his political opinions and peaceful activities in furtherance of those beliefs. The abuses against Mr. Cheema, a trained lawyer, were committed by Indian officials on account of his political opinions, and specifically, his activities in support of the movement for an independent state called Khalistan. (Petitioner's Brief, 5-21)

While in India, Mr. Cheema was repeatedly subjected, over the course of a series of illegal detentions in India from 1987 to 1990, and again in 1992, to a variety of forms of physical and mental torture that are utterly shocking to the human conscience, and described in greater detail in the Administrative Record and the Petitioners' Brief. (See Pb, 7-21) In August 1990, Mr. Cheema fled to Canada and entered the United States, where he stayed until February 1992, when he returned to India to visit his ailing wife. (Pb, 12, 19) Upon his return, he was arrested at the airport in Bombay and once again subjected to physical and mental torture while in detention in New Delhi. (See Pb, 19-21) Following his release from detention in 1992,

Mr. Cheema and Ms. Kaur when into hiding and eventually fled to the United States in 1993. (Pb, 21)

There is a clear likelihood that Mr. Cheema and Ms. Kaur will be tortured or killed if returned to India (See Pb, 1, quoting, A.R., 17, 506). However, the Board still found that Mr. Cheema and Ms. Kaur are ineligible for asylum and withholding of deportation pursuant to §208(a) and §243(h) of the Immigration and Nationality Act (the “Act”), as amended by the Anti-Terrorism and Effective Death Penalty Act of 1996 (“AEDPA”), Pub. L. 104-132, 110 Stat. 1214, 1277 (April 24, 1996). This section of the Act provides the Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of §212(a)(3)(B)(i) or deportable under §241(a)(4)(B), unless the Attorney General determines that there are not “reasonable grounds for regarding the alien as a danger to the security of the United States.” INA §208(a).

There is little guidance and no binding judicial authority to assist the Court in determining whether “there are not reasonable grounds for regarding an alien as a danger to the security of the United States,” as that term is applied as an exception to the mandatory denial of asylum under §208(a) of the Act. The Board, however, in defining this statutory

exception, created and applied an overly broad and arbitrary standard in support of its conclusion that Mr. Cheema and Ms. Kaur did not fall under the exception. The analytical framework developed by the Board in addressing this question is fundamentally flawed because it requires virtually any alien found to have “engaged in terrorist activities”, as that term is defined in § 212(a)(3)(B)(iii), to be regarded as a “danger to the security of the United States.”¹ In doing so, the Board’s interpretation renders the statutory exception essentially meaningless.

In addition, the exception, as interpreted by the Board, is overly broad because it covers activities that are not even directed at the United States or its citizens. However, even under this arbitrary standard, the Court must reject the Board’s finding that there are reasonable grounds to regard Mr. Cheema and Ms. Kaur as a danger to the security of the United States, because the Board has failed to demonstrate or explain how their activities have endangered the lives, property, or welfare of United States citizens, or compromised the national defense of the United States.

¹ The submission of *amicus curiae* is strictly focused on the legal question of what activities support a legal conclusion that there are reasonable grounds to regard an alien as a danger to the security of the United States. *Amicus* does not adopt the conclusion of the Board that Petitioners have “engaged in terrorist activities”, as that term is defined in § 212(a)(3)(B)(iii). In addressing this question, *Amicus* refers the Court to the arguments submitted by the Petitioners in their Brief. (See Pb, 32-58) To the extent that *Amici*’s submission assumes or otherwise suggests that Petitioner’s conduct falls under § 212(a)(3)(B)(iii), such assumption is intended solely for the purpose of conducting the legal discussion that is the subject of this submission.

The Immigration Judge applied the correct standard in its analysis of whether there are reasonable grounds to regard Mr. Cheema and Ms. Kaur as a danger to the security of the United States. There, the court held that an applicant may be regarded as a danger to the security of the United States if the applicant has engaged in terrorist activities that are directed against the United States or committed within its territories. As the Immigration Judge correctly held, Mr. Cheema and Ms. Kaur have no political or other opposition to the interests of the United States or its citizens, nor have they engaged in any terrorist or other activities directed against the United States or committed within its territories. Therefore, under this standard, there are not reasonable grounds to regard Mr. Cheema and Ms. Kaur as a danger to the security of the United States.

ARGUMENT

Section 421(a) of the AEDPA amended §208(a) of the Act, adding:

The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B), unless the Attorney General determines, in the discretion of the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.

Section 421 of AEDPA; INA §208(a)

This provision of the AEDPA, if applicable, constitutes grounds for a mandatory denial of asylum. To determine whether the bar applies, the Court must analyze subclauses (I), (II), and (III) of §212(a)(3)(B)(i) to determine if the applicants are excludable under one of the subclauses of this provision.² If the Court determines that one of these subclauses applies to the applicants, it must then determine if there are reasonable grounds to regard the applicants as dangers to the security of the United States.

In its May 8, 2002 Opinion, the Board found that Mr. Cheema is excludable under §212(a)(3)(B)(i)(II) of the Act as an alien whom “a consular officer or the Attorney General knows, or has reasonable ground to

² Section 241(a)(4)(B) of the Act renders deportable “[a]ny alien who has engaged, is engaged, or at any time after entry engages in any terrorist activity (as defined in section 212(a)(3)(B)(iii)). Therefore, the Immigration Judge and the Board of Immigration Appeals considered this ground in unison with §212(a)(3)(B)(i)(II) of the Act.

believe, is engaged in or is likely to engage after entry in any terrorist activity” as defined in section 212(a)(3)(B)(iii) of the Act.³ (Bd, 8) In particular, the Board held that Mr. Cheema provided material support, by raising funds and providing communications support, to individuals he knew or reasonably should have known, or at least had reason to believe had committed terrorist activities. (Bd, 9) The Board further found that Ms. Kaur was excludable under §212(a)(3)(B)(i)(II) of the Act because, as with Mr. Cheema, by sending money to various Sikhs in India she provided material support for individuals or groups that she knew or should have known, or had reason to believe had committed or planned to commit terrorist activity. (Bd, 9-10)⁴

³ Section 212 (a)(3)(B)(iii) of the Act states:

[T]he term “engage in terrorist activity” means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

(I) The preparation or planning of a terrorist activity.

(II) The gathering of information on potential targets for terrorist activity.

(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

⁴ Neither the Immigration Judge nor the Board found Mr. Cheema or Mrs. Kaur to be excludable under subclauses (I), (III), or (IV) of §212(a)(3)(B)(i)(III) of the Act.

Having found Mr. Cheema and Ms. Kaur to be both excludable under §212(a)(3)(B)(i)(II) of the Act for engaging in terrorist activity, the Board next analyzed whether there are “reasonable grounds for regarding the alien[s] as a danger to the security of the United States.” §208(a) of the Act, as amended by §421(a) of AEDPA; see also 8 C.F.R. § 208.13(c)(2)(i)(C). Here, the Board erroneously held that, because Mr. Cheema and Ms. Kaur engaged in “terrorist activities,” as that term is defined in §208(a) of the Act, there were reasonable grounds for regarding each of them to be a danger to the security of the United States. (Bd, 13) For this reason, the Board held that they are barred from the relief of asylum. (Id., citing, §208(a) of the Act, as amended by §421(a) of AEDPA; 8 C.F.R. § 208.13(c)(2)(i)(C))

POINT ONE

THE BOARD ERRED IN ITS FINDING THAT THERE ARE REASONABLE GROUNDS FOR REGARDING MR. CHEEMA AND MS. KAUR AS A DANGER TO THE SECURITY OF THE UNITED STATES

- A. The Board applied an arbitrary standard in determining that there are reasonable grounds for regarding the Petitioners as a danger to the security of the United States**

In its decision, the Board found that the threshold issue in determining whether there are reasonable grounds to regard an alien as a danger to the

security of the United States, is defining the “reasonable grounds” standard as that phrase is used in this context. (Bd, 11) In this regard, the Board interpreted this language as a “probable cause” requirement. (Bd., 11; citing, Adams v. Baker, 909 F. 2d 643, 649 (1st Cir. 1990); Oen Yin-Choy v. Robinson, 858 F. 2d 1400, 1407 (9th Cir. 1988), cert. denied, 490 U.S. 1106 (1989); Prushinowski v. Samples, 734 F. 2d 1016, 1018 (4th Cir. 1984); Garcia-Guillern v. United States, 450 F.2d 1189, 1192 (5th Cir. 1971), cert. denied, 405 U.S. 989 (1972)) According to Black’s Law Dictionary, “reasonable grounds”, in the context of warrantless arrests, “means substantially probable cause.” Black’s Law Dictionary (6th ed. 1991). Probable cause is defined as “[r]easonable cause; having more evidence for than against.” (Id.) This standard, as set forth by the Board (Bd, 11), places a heavy burden upon the Service to demonstrate beyond mere suspicion that it is more likely than not, or that there is more evidence for than against, that Mr. Cheema and Ms. Kaur may be regarded as a danger to the security of the United States.

However, there is no statutory definition and little other guidance in defining exactly what activities would support a legal conclusion that an alien is a “danger to the security of the United States.” In answering this question both the Immigration Judge and the Board noted that the AEDPA

employs the term “national security” with the understanding that it shall have the same meaning as used in section 1(b) of the Classified Information Procedures Act (“CIPA”), which defines the term as “the national defense and foreign relations of the United States.” (Bd, 13) (IJ, 61; citing, CIPA, Pub. L. 96-456, 94 Stat. 2025 (Oct. 15, 1980)) Both courts also noted that an even broader definition of the term “national security” is found in §219(c)(2) of the Act regarding designations of foreign terrorist organizations, which defines the term as “the national defense, foreign relations, or economic interests of the United States.” The Immigration Judge correctly noted that this is an “extremely general standard” and therefore not particularly helpful. (IJ, 61)

The Board, rather than analyze the applicability of these definitions to the statutory exception, instead chose to lump them together with other vague definitions to create an arbitrary and overly broad standard for what activities may lead to a finding that there are reasonable grounds to regard an alien as a danger to the security of the United States. (See Bd, 12-13) Specifically, under the Board’s standard, an alien may be subject to a mandatory denial as a danger to the security of the United States if the alien acts in a manner that 1) endangers the lives, property, or welfare of United States citizens; 2) compromises the national defense of the United States; or

3) materially damages the foreign relations or economic interests of the United States. (Bd, 13) While the Board presumably relies on the language of the CIPA and §219(c)(2) of the Act in support of the second and third categories, the Board fails to cite any authority at all for its finding that, under the first category, an alien that “endangers the lives, property or welfare” of U.S. citizens, may be regarded as a danger to the security of the United States. For this reason, as a threshold matter, the Board’s analytical framework in examining this important question is fundamentally flawed and should be rejected by the Court.

Nevertheless, even if this Court were to apply the Board’s arbitrary test to the facts of this case, it must reverse the Board’s finding because it has failed to provide any substantive reasoning in support of its conclusion that there are reasonable grounds to regard Mr. Cheema and Ms. Kaur as a danger to the security of the United States. Rather than explain the substantive grounds for its findings, the Board’s analysis is couched in conclusory and rhetorical language that does not provide the parties or this Court with any insight as to *how* or *why* Mr. Cheema and Ms. Kaur’s activities “endanger the lives, property, or welfare of United States citizens.”

In explaining its conclusion, the Board states:

It is clear that those who engage in terrorism within the United States, even when that terrorism

is not directly aimed at the United States, necessarily endanger the lives, property, and welfare of United States citizens, and compromise the national defense of the United States. The danger to the security of the United States from acts of terrorism directed at other nations from within our borders is real. Obviously, such actions endanger the lives, property, and welfare of United States citizens and compromises our national defense. Therefore, because Mr. Cheema and Ms. Kaur, after entering the United States, engaged in terrorist activities . . . we conclude that there are reasonable grounds for regarding each of them to be a danger to the security of the United States.

(Bd, 13)

The Board reasons, in essence, that if Mr. Cheema and Ms. Kaur are excludable for engaging in terrorist activities under §212(a)(3)(B)(i)(II) of the Act by providing material support to individuals or organizations that they knew or reasonably should have known committed terrorist activities (see Bd, 9), then they “necessarily” and “obviously” endanger the lives, property, and welfare of United States citizens, and compromise the national defense of the United States. The Board’s logic here is conclusory and creates a standard that was clearly never intended by the plain language of the statutory exception. Just as importantly, the Board’s holding is deficient because it fails to explain, in general terms, exactly *how* activities falling under §212(a)(3)(B)(i)(II) of the Act “necessarily” and “obviously” endanger the lives of U.S. citizens or compromise the national defense of the

United States. In the context of this case, the Board has also failed to explain how Mr. Cheema and Ms. Kaur's political activities have endangered the lives of U.S. citizens or compromised the national defense of the United States. The fact is, their activities have had no impact on the security of the United States at all, much less a dangerous one, and for this reason alone, the conclusion reached by the Board should be rejected by this Court.

Moreover, the reasoning of the Board construes the "danger to the security of the United States" statutory exception so broadly that in practical terms, it can no longer be said to meaningfully exist. The Board's reasoning, if upheld by this Court, would render the statutory exception a nullity because it would mean that if an alien engages in terrorist activities under §212(a)(3)(B)(i)(II) then the alien "necessarily" and "obviously" is a danger to the security of the United States. This construction of the exception should be rejected by the Court because it renders the "danger to the security of the United States" statutory exception essentially meaningless.

Interestingly, by taking this position the Board is actually contradicting *its own* findings earlier in its decision, wherein it affirmed the Immigration Judge's rejection of the Service's interpretation of the

exception, i.e., that once Mr. Cheema was found to be excludable under §212(a)(3)(B)(i) of the Act, he was, necessarily and statutorily, a danger to the security of the United States. (See, Bd, 11) In that part of its decision, the Board states that is “agree[s] with the Immigration Judge’s rejections of [the Service’s] interpretation . . . [because] that interpretation would render the exception to the asylum bar meaningless.” Id. As the Board itself concedes, the statute in question “contemplates a potential alien who is excludable under one of the designated provisions, yet remains eligible for asylum upon a determination that there are not reasonable grounds for regarding the alien to be a danger to the security of the United States.” Id. Yet, the Board’s subsequent reasoning closes the door on the possibility that an alien may fit into such an exception because, according to the Board, anyone who engages in terrorist activities, as that term is defined under §212(a)(3)(B)(i)(II), must “necessarily” and “obviously” endanger the lives of U.S. citizens and compromise the national defense of the United States. (Bd, 13) Such a standard is inconsistent with the plain language of the statute and must be rejected accordingly.

Finally, the Board’s reasoning in this case is overly broad because it covers the activities of individuals, like Mr. Cheema, who have no opposition to the United States and absolutely no intention to create any

harm to the security of the United States. Nonetheless, the Board held, as cited *supra*, that because Mr. Cheema and Ms. Kaur have “engaged in terrorism” as defined in §212(a)(3)(B)(i)(II) of the Act they are necessarily endangering the welfare of U.S. citizens “*even when that terrorism is not directly aimed at the United States.*” (Bd, 13) (emphasis supplied) This is yet another misguided component of the Board’s construction of the statutory exception because it covers basically any activity under §212(a)(3)(B)(i)(II) without regard to whether the activity is intended to or does in fact endanger the security of the United States. Ironically, the Board came to the exact opposite conclusion in its decision in In re Anwar Haddam, 2000 BIA LEXIS 20 (December 1, 2000), where it held:

[B]ecause we find no evidence that the alien intends to harm the United States or its citizens in any way, we conclude that the Immigration Judge erred in finding that there were “reasonable grounds” for concluding that the applicant himself is a danger to the security of the United States.”

Id., 2000 BIA LEXIS, at 87.

Similarly here, there is no evidence that Mr. Cheema and Ms. Kaur have ever had any intention to harm the United States or its citizens in any way. Therefore, as with the Board’s holding in Haddam, this Court must find that there are not reasonable grounds for regarding Mr. Cheema and Ms. Kaur as a danger to the security of the United States.

B. Even under the Board's arbitrary standard, there are not reasonable grounds for regarding Mr. Cheema and Ms. Kaur as a danger to the security of the United States

Regrettably, Mr. Cheema and Ms. Kaur find themselves caught in the web of the Board's flawed definition of what constitutes reasonable grounds for regarding them as a danger to the security of the United States. However, the fact is, even under the Board's arbitrary test, Mr. Cheema and Ms. Kaur have done nothing to endanger the lives, property and welfare of United States citizens, or compromise the national defense of the United States. They have not been charged with violating any laws in this country. They have never expressed any animosity towards this country, nor have they ever engaged in any activities that were intended to or did in fact cause harm to the security of the United States or its citizens. Therefore, even under the Board's arbitrary standard, there are not reasonable grounds to regard Mr. Cheema and Ms. Kaur as a danger to the security of the United States.

Indeed, if the Board were to consider, on the merits, whether any of Mr. Cheema and Ms. Kaur's activities under §212(a)(3)(B)(i)(II) constituted reasonable grounds for regarding them as a danger to the security of the United States, it would find it simply impossible to connect the dots. But the Board's analysis does not take the critical and necessary step of applying its

definition of the statutory exception to the facts of this case. It fails to demonstrate how Mr. Cheema's assistance in connecting phone calls from individuals to Daljit Singh Bittu has endangered the lives, property, and welfare of United States citizens, or compromised the national defense of the United States. It fails to demonstrate how Ms. Kaur's taking down occasional phone messages and sending money abroad to various Sikhs in India, has endangered the lives, property, and welfare of United States citizens, or compromised the national defense of the United States. Therefore, this Court should find that even under the Board's arbitrary standard, there are not reasonable grounds for regarding Mr. Cheema and Ms. Kaur as a danger to the security of the United States.

POINT TWO

THERE ARE NOT REASONABLE GROUNDS
TO REGARD MR. CHEEMA AND MS. KAUR
AS A DANGER TO THE SECURITY OF THE
UNITED STATES

- A. The Immigration Judge applied the correct standard in determining whether there are reasonable grounds to regard Petitioners as a danger to the security of the United States

While there are several general sources of guidance on what constitutes reasonable grounds for regarding an alien as a “danger to the security of the United States,” the most useful and persuasive definition is provided by the District Court of the Central District of California, cited in the Immigration Judge’s decision, in Barapind v. Rogers, No. CV-94-5279 (BNB)(C.D. Cal. February 15, 1996) (See IJ. 62,64). There, the District Court held that reasonable grounds for regarding an alien as a danger to the security of the United States requires the applicant to “have been involved in crimes or acts directed against the United States or committed within its territories.” (IJ, 62)

While this Court is not bound to apply this definition, it is the proper standard in this case because it is the only decision cited by the Immigration

Judge or Board that rules *directly* upon the proper construction of the term “security of the United States” in the context of the Immigration and Nationality Act, rather the phrase “national security,” as that phrase is used in a myriad of other less applicable contexts. In addition, the Board has not challenged the adequacy of this definition in its opinion, and the Immigration Judge correctly noted that the Service has actually agreed to this interpretation in the past, and in fact even joined the plaintiff in Barapind in proposing this definition to the court in that decision. (See IJ, 62, n.50) Accordingly, the Immigration Judge adopted this standard to guide her analysis of the statutory exception, stating, “this Court will assess if there are ‘reasonable grounds for regarding [Mr. Cheema] as a danger to the security of the United States’ by determining if he has ‘been involved in crimes or acts directed against the United States or committed within its territories.’” (IJ, 64, quoting, Barapind v. Rogers, No. CV 94-5279-JGD (BNB)(C.D. Cal. February 15, 1996)) The District Court’s construction in Barapind of what constitutes reasonable grounds for regarding an alien as a danger to the security of the United States is the most applicable and proper definition for the Court to adopt here.

B. Under the Barapind standard, there are not reasonable grounds for regarding Petitioners as a danger to the security of the United States

As the Immigration Judge correctly held, based on this standard, Mr. Cheema clearly does not present a danger to the security of the United States. (IJ, 64) There is no evidence that he participated in any security-related crimes or acts directed against the citizens or government of the United States, nor has he committed any such crimes or acts within U.S. territories. (Id., at 64) Nor has there been any showing that any of Mr. Cheema's activities in support of his political viewpoints have in any way, shape or form resulted in a danger to the security of the United States or its citizens. As the Immigration Judge further notes, even if Mr. Cheema provided material support to individuals who have engaged in "terrorist activity", none of the activity was directed against the United States or committed within its territories; nor were U.S. citizens or officials targeted, either in the U.S. or abroad. (Id.)

Similarly, the conduct of Ms. Kaur, as with Mr. Cheema, does not constitute reasonable grounds to regard her as a danger to the security of the United States. Her activities were extremely limited in scope, and the Board did not even discuss how Ms. Kaur, by sending small amounts of money to Sikhs in India, could be found to be a danger to the security of the United States. Indeed, the Immigration Judge correctly characterized such a notion as "preposterous". (IJ, 65) Furthermore, the Board erroneously stated that

Ms. Kaur provided material support, through sending money, to “Sikh groups . . . she knew or reasonably should have known or had reason to believe had committed or planned to commit terrorist activity.” (Bd, 10) However, as discussed in the Petitioners’ Brief, this finding is factually incorrect, as there is absolutely no evidence in the record to support this finding. (See Pb, 53-54) Ms. Kaur did not engage in any activities that were in any way directed against the United States or anyone else. In addition, there is no evidence that the activities of Mr. Cheema and Ms. Kaur have in fact created a danger to the security of the United States. Simply put, Mr. Cheema and Ms. Kaur fall under the statutory exception because there are not reasonable grounds to regard them as a danger to the security of the United States.

CONCLUSION

For the foregoing reasons, *amicus curiae* submits that the Court should find that there are not reasonable grounds for regarding the Petitioners as a danger to the security of the United States.

Respectfully submitted,

KROVATIN & ASSOCIATES, LLC
Attorneys for *Amicus Curiae*,
The Sikh Coalition

By:

Ravinder S. Bhalla, Esq.
744 Broad Street, Suite 1903
Newark, New Jersey 07102

Dated: September 20, 2002