UNITED STATES BOARD OF IMMIGRATION APPEALS

IN THE MATTER OF

KARL LINNAS, A8 085 626

RESPONDENT

RESPONDENT'S APPEAL FROM THE
UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION COURT
NEW YORK, NEW YORK

GOVERNMENT'S BRIEF

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CASES (continued):

This brief is submitted in response to an appeal by respondent from a decision of the Immigration Court in New York City, Hon. Howard I. Cohen, ordering respondent deported under Sections 241(a)(1), 241(a)(2) and 241(a)(19) of the Immigration and Nationality Act.

I. BACKGROUND OF THE CASE

The facts surrounding this case have now been reviewed and acted upon by four courts. Respondent was ordered denaturalized by the U.S. District Court for the Eastern District of New York on July 30, 1981, United States v. Linnas, 527 F.Supp. 426 (Exhibit 4). On January 25, 1982, the Court of Appeals for the Second Circuit affirmed the decision of the District Court, 685 F.2d 427 (Exhibit 5); 1/ on April 5, 1982, the Court of Appeals denied a petition for rehearing; and on October 4, 1982, the United States Supreme Court denied a writ of certiorari (103 S.Ct. 179) (Exhibit 5).

1/ There is an unpublished Second Circuit opinion in the case, a certified copy of which is attached hereto. This opinion contains the following notation:

> "N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court."

(Emphasis added.) Since this is clearly a related case and since respondent has access to the opinion, the Second Circuit's decision can be used in connection with deportation proceedings against Karl Linnas. It is clear that this notation is meant to apply to use of the decision as precedent in other, unrelated cases, not to use of the decision in Linnas' case.

By order dated May 19, 1983, the Immigration Court in New York City, Hon. Howard I. Cohen, ordered the respondent deported.

Respondent, in his appeal, raises the same issues which have been decided time and again by the courts which have previously dealt with this case. The government moves that this Board summarily dismiss the appeal under 8 C.F.R. §3.1(d)(1-a)(iv), since it is frivolous and filed solely for the purpose of delay.

II. ALL OF RESPONDENT'S ARGUMENTS ARE WITHOUT MERIT AND HAVE ALREADY BEEN REJECTED

A. Respondent's Point I

Respondent claims that "the immigration judge failed to consider whether respondent had a full and fair opportunity to litigate the issues on which the immigration judge applied collateral estoppel." Respondent's appeal brief dated July 8, 1983, p. 1 (hereafter referred to as "Respondent's Brief"). The Court of Appeals and Supreme Court have already considered the fairness of the denaturalization trial. Those courts found the trial to have been conducted fairly. The standards of fairness in a deportation proceeding are not more rigorous than in denaturalization. Abel v. United States, 362 U.S. 217, 237 (1960); Chavez-Raya v. INS, 519 F.2d 397, 400-401 (7th Cir. 1975). Furthermore, the Immigration Court found, totally apart from the denaturalization judgment, that "deportability has been established by clear, convincing and unequivocal evidence," based on the

evidence submitted to the Immigration Court. Immigration Judge's Decision, pp. 2, 5-6. It is therefore clear that respondent has had a full and fair opportunity to litigate the issues in this case on several occasions.

B. Respondent's Point I.A.

Respondent claims that "an infamous Soviet show trial deprived respondent of his American privilege against self-incrimination." Respondent's Brief, p. 3. Respondent raises two arguments in this regard: 1) That the government did not prove the conviction of respondent through a certified copy of the judgment of conviction and 2) That the conviction is "illegal."

Issues relating to respondent's Fifth Amendment claims are Constitutional issues which are beyond the scope of the BIA's authority. Matter of Cortez, 16 I&N Dec. 289, 291, n.2 (BIA 1977); Matter of Chery and Hasan, 15 I&N Dec. 380, 382 (BIA 1975); Dastmalchi v. INS, 660 F.2d 880, 886 (3d Cir. 1981). The Court of Appeals specifically rejected Linnas' argument that he was deprived of due process and a fair trial because he was denied his privilege against self-incrimination. Court of Appeals Decision, p. 2. Linnas never testified pursuant to the District Court's orders and the District Court did not draw any inference from his refusal to testify, so that the issue is moot, as found by the Second Circuit. Court of Appeals Decision, p. 2.

Despite that, the government will again address the two specific objections raised by respondent on this point.

1. Throughout the pretrial proceedings and trial in the District Court, defense counsel conceded that respondent had been convicted in Estonia, and in fact introduced evidence showing that that was the case. Defense counsel still concedes that respondent was convicted. See, e.g., Respondent's Brief, pp. 5-7, 32. A person claiming the privilege against self-incrimination has the burden of establishing a reasonable fear of prosecution. Camelot Group, Ltd. v. W.A. Krueger Co., 486 F.Supp. 1221, 1225-27 (S.D.N.Y. 1980); In the matter of Grand Jury Empanelled February 14, 1978 (Markowitz), 603 F.2d 469, 477 (3d Cir. 1979); United States v. Weisman, 111 F.2d 260 (2d Cir. 1940). The government did not have to establish the Estonian conviction through a certified copy of the conviction, as it might have to do in instances where the government has the burden of proof beyond a reasonable doubt. 2/

2/ Furthermore, Linnas never argued in the District Court that a certified copy of the conviction was required; as previously stated, Linnas conceded the Estonian conviction. The first time this objection was raised was before the Second Circuit, which found the issue to be moot. The objection at that point and at this point, before the BIA, is untimely. United States v. Woodner, 317 F.2d 649, 651-52 (2d

[footnote continued]

2. The alleged illegality of the conviction in Estonia is irrelevant to Linnas' Fifth Amendment privilege. In order to assert his Fifth Amendment privilege, defendant had to establish a reasonable fear of prosecution somewhere, based on his statements. The District Court held that defendant did not do so. The only relevance of the Estonian conviction was that it established that defendant had already been convicted there and could not be convicted again on the basis of his compelled statements. "It is well established that once a witness has been convicted for the transactions in question he is no longer able to claim the privilege of the Fifth Amendment and may be compelled to testify." United States v. Hoffman, 385 F.2d 501, 504 (7th Cir. 1967), cert. denied, 390 U.S. 1031; United States v. Romero, 249 F.2d 371 (2d Cir. 1957); United States v. Maikovskis, No. M18-304 (S.D.N.Y. March 10, 1978), aff'd without opinion, 584 F.2d 974 (2d Cir. 1978). The fairness of the

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[footnote 2/ continued] Cir. 1963), cert. denied, 375 U.S. 903 (1963); United States v. Indiviglio, 352 F.2d 276 (2d Cir. 1965); Fed.R.Evid. 103. Had Linnas raised this objection at the time when the foreign conviction was considered by the court below, the certified copy which he now insists was required could have been provided. United States v. Del Llano, 354 F.2d 844 (2d Cir. 1965); United States v. Meyer, 113 F.2d 387 (7th Cir. 1940).

conviction is not an issue in this regard. See Maikovskis, supra; IIT v. Cornfeld, 462 F.Supp. 209 (S.D.N.Y. 1978), modified, 619 F.2d 909 (2d Cir. 1980).

The government in no way relied upon Linnas' Estonian conviction at the denaturalization trial to prove any of the government's case. As respondent points out, the Estonian conviction was never even offered into evidence at trial.

Both of these contentions regarding the Estonian conviction were raised by respondent in his appeal to the Second Circuit. As respondent points out in his brief to the BIA, "[n]either the District Court nor the Court of Appeals deemed this point worthy of consideration. Unfortunately, neither did the Immigration Judge." Respondent's Brief, p. 8. Neither did the Supreme Court.

C. Respondent's Point I.B.

Respondent claims that "by asserting his privilege against self-incrimination, respondent lost his opportunity to confront the Soviet witnesses." Respondent's Brief, p. 8.

By order dated September 24, 1980, the District Court directed the defendant to answer the government's interrogatories on or before October 14, 1980. On October 10, 1980, defendant advised the court that he would not comply with

the court's order. 3/ See Respondent's Exhibit 25, Order of the District Court dated October 24, 1980. As a sanction for failure to provide discovery and for disobeying a court order, in its order dated October 24, 1980 the District Court directed that each party pay its own costs for the depositions in Estonia.

Rule 37, Fed.R.Civ.P. provides District Courts with broad discretion to remedy failures or refusals by a party to provide discovery. The District Court might have gone so far as to enter judgment for the Government. Diapulse Corp. of America v. Curtis Publishing Co., 374 F.2d 442 (2d Cir. 1967); Klapprott v. United States, 183 F.2d 474 (3d Cir. 1950), cert. denied, 340 U.S. 896 (1950).

Rule 37 provides that:

> "[i]n lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure * * *."

The District Court could even have ordered respondent or his attorney to pay the government's costs in taking the Estonian depositions, since it was respondent's failure to answer the interrogatories which necessitated the taking of the depositions. The mild sanction imposed by the District Court was clearly proper.

3/ Defendant made no effort to appeal the District Court's order; he simply disobeyed it.

The Court of Appeals held that the District Court did not abuse its discretion in refusing to order the government to subsidize respondent's expenses for the Estonian depositions. The Court of Appeals held that respondent had not demonstrated that he was so indigent that the government should pay his expenses. Court of Appeals Decision, p. 2.

Defendant was never deprived of his right of cross examination. His blatant refusal to comply with a court order merely resulted in his having to pay his attorney's expenses to attend the depositions in Estonia, if he chose to attend. 4/

D. Respondent's Point I.C.

Respondent claims that "respondent was also denied adequate discovery because he relied on his Fifth Amendment privilege." Respondent's Brief, p. 10.

Once again, the District Court applied proper sanctions for failure and refusal to provide discovery under Rule 37, Fed.R.Civ.P. The denaturalization trial was held to be fair and to comply with due process requirements; certainly, lack of discovery that is fair in a denaturalization trial does not create any unfairness in a deportation proceeding, where there is ordinarily no discovery. Respondent, in fact, never requested any discovery in the deportation proceeding.

4/ Defendant also could have submitted written questions to be propounded at the depositions, pursuant to Rule 30(c), Fed.R.Civ.P., but failed to do so.

The District Court's sanction merely was an attempt to place the defendant and the government in equal positions; if the government was to get no discovery as provided by the Federal Rules of Civil Procedure, neither was the defendant (although, as noted by the District Court, the defendant still received extensive discovery. 527 F.Supp. at 429, n.3.).

E. Respondent's Point I.D.

Respondent claims that "respondent was precluded from deposing the Soviet judge, procurator and defense counsel who staged the show trial." Respondent's Brief, p. 11.

This was clearly an improper request 5/ which bore no relevance to the issues in the trial in the United States District Court. The government did not rely upon Linnas' Estonian conviction at the denaturalization trial to prove any of the case; the Estonian conviction was not even offered into evidence at trial.

Once again, this issue was raised before and rejected by the Court of Appeals. The Court held that "Judge Mishler

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5/ The courts of this country have traditionally refused to examine the legality of the act of a foreign sovereign within its own borders. Banco Nacional De Cuba v. Sabbatino, 376 U.S. 398 (1964); Banco de Espana v. Federal Reserve Bank, 114 F.2d 438, 443 (2d Cir. 1940) and cases cited thereat; Bernstein v. Van Heyghen Feres Societe Anonyme, 163 F.2d 246, 249 (2d Cir. 1947) (doctrine extended even to internal acts of Nazi Germany). This doctrine controls even where the foreign action is claimed to fail the test of due process, as this country defines it. IIT v. Cornfeld, supra.

did not abuse his discretion in rejecting appellant's motions to depose Soviet officials." Court of Appeals Decision, p. 2.

F. Respondent's Point II

Respondent claims that "the government has not established the reliability of the Soviet evidence." Respondent's Brief, p. 12.

The government etablished the reliability of sufficient evidence (both Soviet and non-Soviet) to carry its burden of proof in the District Court (as affirmed by the Court of Appeals and Supreme Court) and the Immigration Court. No one was confused about the burden of proof in this case, as respondent contends at pages 12-13 of his brief. The District Court held that the evidence in the case established "beyond dispute that defendant, Karl Linnas, assisted the enemy in persecuting civil populations." 527 F.Supp. at 439. The Immigration Court found that "based on the entire record of proceeding * * * deportability has been established by clear, convincing and unequivocal evidence." Immigration Judge's Decision, pp. 5-6.

Although the government clearly did establish the reliability of the Soviet evidence, 6/ the case does not turn

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6/ The government presented the testimony of an expert document examiner from the F.B.I. to establish the authenticity of documents received from the Soviets and signed by Karl

[footnote continued]

on that alone. There was the testimony of the F.B.I. document examiner who established the authenticity of the documents signed by "Karl Linnas" over the title "Chief of Concentration Camps" or "Chief of Tartu Concentration Camp." Defendant failed to produce a document expert to challenge either the authenticity of the documents or the conclusion that defendant had signed them. There was the testimony of Richard Siebach, a co-worker of Linnas in the United States, who testified that Linnas admitted having been a guard at the

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[footnote 6/ continued] Linnas as "Chief of Concentration Camps" or "Chief of Tartu Concentration Camp." The District Court concluded that "the documents were signed by Linnas and are authentic and unaltered." 527 F.Supp. at 434. Linnas did not deny that he had signed these documents as chief of the concentration camp; he refused to testify at the trial.

The District Court stated the following concerning the testimony of the Estonian witnesses:

> "After reading the deposition transcripts and viewing portions of each of the video-tapes taken in the Soviet Union, we find that the Government witnesses were credible."

527 F.Supp. at 434, n.15. Once again, Linnas never testified that these witnesses weren't who they said they were or weren't telling the truth.

The defense attorney tried to turn the denaturalization trial and deportation proceeding into a trial of the Soviet judicial system, instead of a trial of the defendant. However, defense counsel was unable to produce any evidence showing that the Soviet Union has ever fabricated allegations of Nazi war crimes, as claimed on page 15 of Respondent's Brief. It seems that respondent's only defense to specific evidence of his participation in mass murder and atrocities is to criticize the Soviet Union.

Tartu camp. There was also the testimony of Dr. Harald Keiland from Stockholm, about the conditions and killings at the Tartu concentration camp. There were other documents and witnesses from western sources. All of this establishes by clear, convincing, and unequivocal evidence that defendant served as chief of a concentration camp, that he persecuted Jews and other civilians, and that he is deportable. 7/

G. Respondent's Point III

Respondent claims that "the issues on which the immigration judge found respondent precluded were not actually and necessarily determined by the district court." Respondent's Brief, p. 21. Respondent contends that since there were three grounds for denaturalization found by the District Court, two of those grounds involving the naturalization process, collateral estoppel ought not apply. Respondent contends that "when a decision is based on alternative grounds, as is the District Court's, collateral estoppel ought not be applied." Respondent's Brief, pp. 21-22.

7/ The District Court did not draw an adverse inference against the defendant for his failure to testify, although it could have. See 527 F.Supp. at 430 n.5. See also Cabral-Avila v. Immigration and Naturalization Service, 589 F.2d 957, 959 (9th Cir. 1978), cert. denied, 440 U.S. 920 (1979); United States ex rel. Zapp v. District Director of INS, 120 F.2d 762, 764 (2d Cir. 1941); United States ex rel. Bilokumsky v. Tod, 263 U.S. 149 (1923).

Respondent's statement of the law of collateral estoppel is incorrect. The rule in the Second Circuit, and the majority rule, is that "[w]here the judgment is based upon the matters litigated as alternative grounds, the judgment is determinative on both grounds, although either alone would have been sufficient to support the judgment." Winters v. Lavine, 574 F.2d 46, 67 (2d Cir. 1978). See also Ezagui v. Dow Chemical Corp., 598 F.2d 727, 733 (2d Cir. 1979) ("even 'if a court decides a case on two grounds, each is a good estoppel'"); Irving National Bank v. Law, 10 F.2d 721, 724 (2d Cir. 1926) (same); Kessler v. Armstrong Cork Co., 158 F. 744, 747 (2d Cir. 1907), cert. denied, 207 U.S. 597 (1907): In re Westgate-California Corp., 642 F.2d 1174, 1176 (9th Cir. 1981) ("[E]ven though the court rests its judgment alternatively upon two or more grounds, the judgment concludes each adjudicated issue that is necessary to support any of the grounds upon which the judgment is rested."); Wright, Miller & Cooper, Federal Practice and Procedure, §4421, p. 204 et seq.

Respondent cites two cases from outside the Second Circuit and the Restatement 2d of Judgments for the contrary proposition. However, these sources note an important exception to the position they adopt:

> "If the judgment of the court of first instance was based on a determination of two issues, either of which standing independently would be sufficient to support the result, and the appellate court upholds both of these determinations as sufficient, and accordingly affirms the judgment, the judgment is conclusive as to both determinations."

Restatement of Judgments 2d, §27(o), p. 263. See also Hicks v. Quaker Oats Co., 662 F.2d 1158, 1168-1169 (5th Cir. 1981); Church of Scientology of California v. Linberg, 529 F.Supp. 945, 966 (C.D. Cal. 1981). The Second Circuit affirmed the District Court's denaturalization judgment of Linnas on all grounds. Court of Appeals Decision, p. 2. So even under the minority view (which is clearly not the rule in the Second Circuit), collateral estoppel applies in this case.

Furthermore, the basic facts underlying all three grounds for denaturalization were the same and were actually and necessarily determined by the District Court: Linnas' service at the concentration camp and assistance in persecution. That is clearly sufficient for collateral estoppel to apply, under any view of the law.

Moreover, the Immigration Court, in addition to applying collateral estoppel, independently found "based on the entire record of proceeding that deportability has been established by clear, convincing and unequivocal evidence." Immigration Judge's Decision, pp. 5-6.

Respondent argues that his motives for engaging in the persecution of Jews are relevant to his deportability under Charge 7, which alleges deportability under Section 241(a)(19) of the Immigration and Nationality Act. Respondent's Brief, pp. 22-23, 26-27. Respondent seems to be implying that the government must prove that he assisted in persecution because he hated Jews. However, respondent's motives for engaging in persecution of Jews -- whether it was hatred of Jews, the desire to advance in the Nazi heirarchy, sadism, or any other reason -- are irrelevant. It is sufficient that the individuals who were selected for persecution were selected on the basis of their race or religion, and that respondent assisted in the persecution. The Immigration Court so held. Immigration Judge's Decision, p. 5. The District Court so held. 527 F.Supp. at 439 n.32. The District Court stated the following concerning defendant's "motivation" argument:

> "[D]efendant's motivations have no legal significance given the facts established by the Government at trial, e.g., defendant's supervision and participation in atrocities committed against human life."

527 F.Supp. at 431 n.9 (emphasis in original). 8/

8/ In Fedorenko v. United States, 449 U.S. 490, 512 (1981) the Court, in construing §2(a) of the IRO Constitution, held that it didn't matter whether assistance in persecution was voluntary or involuntary.

> "Under traditional principles of statutory construction, the deliberate omission of the word 'voluntary' from §2(a) compels the conclusion that the statute made all

[footnote continued]

Respondent challenges the Constitutionality of Section 241(a)(19) of the Immigration and Nationality Act, claiming that it is an ex post facto law and bill of attainder. Respondent's Brief, pp. 23-24. The Constitutionality of Section 241(a)(19) cannot be determined by this Board; the BIA may not rule on the Constitutionality of the statutes it administers. Matter of Cortez, 16 I&N Dec. 289, 291 n.2 (BIA 1977); Matter of Chery and Hasan, 15 I&N Dec. 380 (BIA 1975); Dastmalchi v. INS, 660 F.2d 880, 886 (3d Cir. 1981). However, Section 241(a)(19) is unquestionably Constitutional. Lehmann v. United States ex rel. Carson, 353 U.S. 685, 690 (1957) (Congress has the power to establish grounds for deportation that apply retrospectively.); Harisiades v. Shaughnessy, 342 U.S. 580, 594-595 (1952) ("The inhibition against the passage of an ex post facto law by Congress * * * applies only to criminal laws * * * and not to a deportation act like this."); Mahler v. Eby, 264 U.S. 32, 39 (1924)

[footnote 8/ continued]

> those who assisted in the persecution of civilians ineligible for visas." (Emphasis in original.)

In other words, the Court ruled that the motivation for assisting in persecution is irrelevant. Certainly respondent's motivation for assisting in persecution where he makes no claim that it was involuntary -- whether it was hatred of Jews, desire to get ahead in the Nazi heirarchy, etc. -- is even less relevant than the question of voluntariness.

The same logic applies to Section 241(a)(19) of the I&N Act. The "deliberate omission of the word 'voluntary' * * * compels the conclusion that the statute [makes] all those who assisted in persecution" deportable, regardless of motivation.

(same); United States v. Brown, 381 U.S. 437 (1965) (Not a bill of attainder); Rubio de Cachu v. INS, 568 F.2d 625, 627-28 (9th Cir. 1977) (Not a bill of attainder); MacKay v. McAlexander, 268 F.2d 35 (9th Cir. 1959), cert. denied, 362 U.S. 961 (1960). 9/

H. Respondent's Point IV

Respondent claims that "the government ought to be estopped from seeking respondent's deportation because its wrongful conduct has inflicted upon the respondent a grave injustice." Respondent's Brief, p. 27. Respondent ascribes two incidents of "wrongful conduct" on the part of the government:

1. Failure to "call to the District Court's attention the circumstances surrounding the Soviet 'conviction.'" Respondent's Brief, p. 27.
2. The "government's failure to bring to the District Court's attention" Exhibit 17, the Inimical List. Respondent's Brief, p. 28.

As to the first point, the government does not know the circumstances surrounding the Soviet conviction. More importantly, however, those circumstances are irrelevant to the issues in this case. The government did not rely on the

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9/ Defense counsel's characterization of the respondent's commission of murder and atrocities against innocent Jewish civilians, including children, as "the apprehension and detention of communist terrorists," (Respondent's Brief, p. 23) is repugnant.

Soviet conviction to prove any part of its case; the conviction was not ever offered into evidence.

As to the second point, even if the government attorneys who tried the case in the District Court knew about the Inimical List at that time, it is inculpatory rather than exculpatory. Respondent seems to be arguing that since the organization "Omakaitse" is not on the Inimical List, the list is exculpatory. However, the District Court held that Linnas served in the Estonian Schutzmannschaften from 1942 to 1944, after his service in the Omakaitse. 527 F.Supp. at 435, 441-42. The Estonian Schutzmannschaften is on the Inimical List (Exhibit 17). 10/

I. Respondent's Point V

Respondent claims that he is eligible for discretionary relief. However, it is clear, and respondent in fact concedes, that respondent is not eligible for any form of discretionary relief if he is deportable under Section 241(a)(19). The Immigration Court found him deportable under that section.

J. Respondent's Point VI

Respondent claims that "designation of U.S.S.R. as an alternate place of deportation constitutes cruel and unusual

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10/ In any case, the Inimical List was introduced into evidence by respondent in the Immigration Court and was before that court when it reached its decision.

punishment" because it "would place respondent in front of a firing squad." Respondent's Brief, p. 37. First, this is a Constitutional issue which is beyond the scope of the BIA's authority. Matter of Cortez, 16 I&N Dec. 289, 291 n.2 (BIA 1977); Matter of Chery and Hasan, 15 I&N Dec. 380 (BIA 1975); Dastmalchi v. INS, 660 F.2d 880, 886 (3d Cir. 1981). Second, this Board orders deportation, not execution. Deportation is not cruel and unusual punishment. Fong Yue Ting v. United States, 149 U.S. 698, 730 (1893) ("[D]eportation is not a punishment * * * [T]he provisions of the Constitution * * * prohibiting * * * cruel and unusual punishments, have no application."); Oliver v. INS, 517 F.2d 426, 428 (2d Cir. 1975), cert. denied, 423 U.S. 1056 (1976) ("deportation, however severe its consequences, has been consistently classified as a civil rather than a criminal procedure," to which the cruel and unusual punishment prohibition does not apply); United States ex rel. Zapp v. District Director of INS, 120 F.2d 762, 764 (2d Cir. 1941). The ultimate results of deportation are not to be considered, except in the context of asylum or discretionary relief, for which respondent is not eligible. 11/

11/ Even if deportation were ultimately to lead to execution and the Board could consider that, execution is not necessarily cruel and unusual punishment for an individual found to have committed the type of atrocities involved here. Capital punishment for murder is not per se cruel and unusual. Gregg v. Georgia, 428 U.S. 153, 169 (1976); Proffitt v. Florida, 428 U.S. 242, 247 (1976).

CONCLUSION

For the foregoing reasons, respondent's grounds for appeal are without merit. The order of the Immigration Court directing respondent's deportation and denying discretionary relief should be affirmed in all respects.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This hereby certifies that a copy of the foregoing Government's Brief in Response to Respondent's Appeal in the Matter of Karl Linnas was mailed, postage prepaid, to Ivars Berzins, Esq., 484 West Montauk Highway, Babylon, New York, 11702, Attorney for Respondent, this 5th day of August, 1983.

Jeffrey N. Mausner