



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals

Office of the Clerk

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Houston TX 77081

DHS/ICE Office of Chief Counsel - HOU

Name:

Riders:

Date of this Notice: 3/15/2022

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:

Gonzalez, Gabriel L

Userteam: Docket

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:



Respondents

FILED

Mar 15, 2022

ON BEHALF OF RESPONDENTS: Juan Reyes, Esquire

IN REMOVAL PROCEEDINGS

On Appeal from a Decision of the Immigration Court, Houston, TX

Before: Gonzalez, Temporary Appellate Immigration Judge¹

GONZALEZ, Temporary Appellate Immigration Judge

The respondents, mother and child and natives and citizens of El Salvador, appeal from the May 14, 2019, decision of the Immigration Judge denying their applications for asylum under section 208 of the Immigration and Nationality Act (Act), 8 U.S.C. § 1158, and withholding of removal under section 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3).² The Department of Homeland Security (DHS) has not filed any opposition to the respondent's appeal. The record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal, the respondents contend that the Immigration Judge erred in denying their applications for asylum and withholding of removal under section 241(b)(3) of the Act. We acknowledge and appreciate the Immigration Judge's reasoning and decision. However, subsequent to the Immigration Judge's decision, the Attorney General, in *Matter of A-B-*, 28 I&N Dec. 307 (A.G. 2021), vacated the prior *A-B-* decisions in their entirety. See also *Matter of L-E-A-*, 28 I&N 304 (A.G. 2021). Under these circumstances, and in an abundance of caution, the record will be remanded to the Immigration Judge to reevaluate the respondents' eligibility for

¹ Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. See generally 8 C.F.R. § 1003.1(a)(1), (4).

² The respondents did not seek protection under the Convention Against Torture. See Exh. 2.

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relief based on current case law.³ See *Matter of A-R-C-G-*, 26 I&N Dec. 388 (BIA 2014); see also *Matter of Cruz-Valdez*, 28 I&N Dec. 326 (A.G. 2021); *Matter of Chen*, 20 I&N Dec. 16 (BIA 1989); EOIR Director's Memorandum 22-03 (Administrative Closure). On remand, both parties may submit additional evidence and arguments.⁴

Accordingly, the following order will be entered.

ORDER: The record is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

³ In this regard, we note that the Immigration Judge's finding that the lead respondent's former partner did not abuse other women, thereby rendering the abuse "personal" and "individualized," does not preclude the lead respondent's claim (IJ at 10-11).

⁴ On remand, pursuant to the then-Acting EOIR Director's Policy Memorandum 21-25, the DHS should indicate whether the lead respondent, who was raped numerous times, and the rider respondent are an enforcement priority and whether the DHS would exercise some form of prosecutorial discretion, such as stipulating to eligibility for relief, agreeing to administrative closure, or requesting termination or dismissal of the proceedings.