



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

**Rashid, Diana
National Immigrant Justice Center
224 S Michigan Avenue
Suite 600
Chicago, IL 60604**

**DHS/ICE Office of Chief Counsel - CHI
525 West Van Buren Street
Chicago, IL 60607**

Name: P [REDACTED]-S [REDACTED], N [REDACTED]

A [REDACTED]-777

Date of this notice: 7/27/2020

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:
Donovan, Teresa L.
Swanwick, Daniel L.
Greer, Anne J.

Userteam: Docket

**For more unpublished decisions, visit
www.irac.net/unpublished/index**

RC

Falls Church, Virginia 22041

File: A [REDACTED]-777 – Chicago, IL

Date:

JUL 27 2020

In re: N [REDACTED] P [REDACTED]-S [REDACTED]

IN ASYLUM AND/OR WITHHOLDING PROCEEDINGS

APPEAL

ON BEHALF OF APPLICANT: Diana Rashid, Esquire

ON BEHALF OF DHS: Caitlin A. Corcoran
Assistant Chief Counsel

APPLICATION: Withholding of removal

The applicant, a native and citizen of Mexico, appeals from the Immigration Judge's September 16, 2019 decision denying her application for withholding of removal from Mexico under section 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3). The Department of Homeland Security ("DHS") opposes the appeal, but does not challenge the Immigration Judge's decision insofar as it grants the applicant withholding of removal from Mexico pursuant to the Convention Against Torture, 8 C.F.R. §§ 1208.16(c)-1208.18. The record will be remanded.

This Board reviews 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 the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The applicant claims past persecution and a well-founded fear of future persecution in her native Mexico on account of her membership in the following particular social groups: 1) "Mexican women"; 2) "Mexican women in intimate relationship they are unable to leave"; 3) Mexican women who disobey or oppose patriarchal societal norms; 4) "Nuclear family members of Josue Morales de Leon" (IJ at 7; Applicant's Pre-hearing Br. at 13-20). The Immigration Judge noted the similarity between the first three proposed social groups and found they were restatements of the core particular social group, "Mexican women in Chiapas in intimate relationships they are unable to leave because of patriarchal societal norms" (IJ at 7). The Immigration Judge found the applicant credible, but denied her application for withholding of removal under section 241(b)(3) of the Act after she failed to establish membership in a legally cognizable social group under *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018) (IJ at 9).

The Attorney General determined that "[s]ocial groups defined by their vulnerability to private criminal activity likely lack the particularity required [for a social group to be cognizable], given that broad swaths of society may be susceptible to victimization." *Matter of A-B-*, 27 I&N Dec. 316, 320, 333, *overruling Matter of A-R-C-G-*, 26 I&N Dec. 388 (BIA 2014). However, the Attorney General's decision does not preclude all domestic violence claims without exception in the asylum context and adjudicators are required to conduct a case-by-case analysis of each asylum claim. *Matter of A-B-*, 27 I&N Dec. at 320, 340. Thus, we will remand the record to the

Immigration Judge to make additional, relevant findings of fact pursuant to *Matter of A-B-*, 27 I&N Dec. at 332, and to reassess the applicant's eligibility for relief. Because we are remanding the record for further proceedings, we need not address additional arguments the applicant raises in her brief on remand.

On remand, the Immigration Judge should reassess the legal cognizability of each of the applicant's proposed gender-based particular social groups. *Matter of A-B-*, should be applied to each of the proposed particular social groups. If, on remand, the Immigration Judge concludes that the applicant established membership in a legally cognizable particular social group, the Immigration Judge should next assess whether the applicant established past persecution or a well-founded fear of future persecution on account of her membership in that particular social group, determine if the Mexican government was unable or unwilling to control her feared persecutor, and whether she can internally relocate within Mexico.

If the applicant succeeds in establishing that she suffered past persecution on account of a protected ground by a perpetrator whom the government was unable or unwilling to control, she would be entitled to a presumption of a well-founded fear of persecution on this basis. 8 C.F.R. §1208.13(b)(1). This presumption could be rebutted upon a showing by the DHS that there has been a "fundamental change in circumstances such that applicant no longer has a well-founded fear of persecution" in Mexico, or that "the applicant could avoid future persecution by relocating to another part of the applicant's country of nationality." 8 C.F.R. §§ 1208.13(b)(1)(i)(A)-(B), (ii). We make no determination as to the outcome of the case.

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



FOR THE BOARD

Board Member Anne J. Greer respectfully dissents without opinion.