



**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*

**Boyle, Allison  
Atlas, Hall & Rodriguez, LLP  
50 W. Morrison Rd., Suite A  
Brownsville, TX 78520**

**DHS/ICE Office of Chief Counsel - PIS  
27991 Buena Vista Blvd  
Los Fresnos, TX 78566**

**Name: C [REDACTED] -A [REDACTED], J [REDACTED] G... A [REDACTED] -254**

**Date of this notice: 9/19/2019**

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:  
Noferi, Mark  
Greer, Anne J.  
O'Connor, Blair**

**U.S. DEPARTMENT OF JUSTICE  
User team: Docket**

**For more unpublished decisions, visit  
[www.irac.net/unpublished/index](http://www.irac.net/unpublished/index)**

*RL*

Falls Church, Virginia 22041

File: A-254 – Los Fresnos, TX

Date: SEP 19 2019

In re: J-G-C-A- a.k.a. a.k.a.

IN ASYLUM AND/OR WITHHOLDING PROCEEDINGS

APPEAL

ON BEHALF OF APPLICANT: Allison Boyle, Esquire

ON BEHALF OF DHS: Joseph M. Lattanzio  
Assistant Chief Counsel

APPLICATION: Remand; withholding of removal; Convention Against Torture

The applicant appeals from a March 25, 2019, Immigration Judge decision denying the applicant's requests for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1231(b)(3), and protection under the Convention Against Torture, 8 C.F.R. §§ 1208.16(c), 1208.18 (2019).<sup>1</sup> We will remand the record for further proceedings.

This Board reviews the Immigration Judge's factual findings, including credibility findings, for clear error. 8 C.F.R. § 1003.1(d)(3)(i) (2019). We review all other issues de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent argues that her due process right to a full and fair removal hearing was violated, and requests remand to a different Immigration Judge (Respondent's Br. at 1-21). As set forth in *Matter of Y-S-L-C-*, 26 I&N Dec. 688 (BIA 2015), "a respondent in immigration proceedings should expect dignity, respect, courtesy, and fairness in a hearing before an Immigration Judge. Conduct by an Immigration Judge that can be perceived as bullying or hostile can have a chilling effect on a respondent's testimony and thereby limit his or her ability to fully develop the facts of the claim. Such behavior also creates the appearance that an Immigration Judge has abandoned his or her role as a neutral fact-finder and raises a question whether the respondent was given a full and fair hearing of his claims and a reasonable opportunity to present evidence on his behalf. Moreover, the mere appearance of bias on the part of an Immigration Judge can diminish the stature of the judicial process that he or she represents." *Matter of Y-S-L-C-*, 26 I&N Dec. at 690-91 (remanding for a new hearing before a different Immigration Judge) (internal citations and quotations omitted).

However, an Immigration Judge may be "short tempered" without violating due process; judicial expressions of impatience or annoyance are not unconstitutional unless they derive from

<sup>1</sup> The Immigration Judge refers to several documents from the applicant's 2008 proceedings that are not in the record (IJ at 1-2). Exhibits 4B and 4C appear to have been inadvertently omitted from the record.

an extrajudicial source or betray a level of deep-seated antagonism against the respondent that would make fair judgment impossible. *Liteky v. United States*, 510 U.S. 540, 555-56 (1994).

We conclude that a new hearing by a different Immigration Judge is warranted. A review of the record indicates that the hearing raised concerns articulated in *Matter of Y-S-L-C-*. Based on concerns raised by the respondent regarding commentary by the Immigration Judge that is inappropriate (Respondent's Br. at 6-21, *citing, e.g.*, Tr. at 1-2, 5-6, 22, 28-44, 57-58, 61-62, 66-69, 71, 73, 86, 88-89, 94-99), given the totality of the circumstances, we will remand the record for a new hearing before a different Immigration Judge. *Matter of Y-S-L-C-*, 26 I&N Dec. at 690-91.

Accordingly, the following order will be issued.

ORDER: The record is remanded to the Los Fresnos Immigration Court for further proceedings consistent with this order, and for the entry of a new decision.



---

FOR THE BOARD