



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: O [REDACTED]-M [REDACTED], C [REDACTED]  
Riders: [REDACTED]**

**A [REDACTED]-428**

**Date of this notice: 6/22/2018**

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:  
Cole, Patricia A.  
Wendtland, Linda S.  
Crossett, John P.

User team: Docket

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Falls Church, Virginia 22041

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Files: [REDACTED] 428 – Baltimore, MD  
[REDACTED]  
[REDACTED]

Date: JUN 22 2018

In re: C [REDACTED] O [REDACTED] -M [REDACTED] a.k.a. [REDACTED]  
[REDACTED]  
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Christina A. Wilkes, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondents timely appeal the Immigration Judge's June 8, 2017, decision finding that the respondents did not meet their burdens of proof for asylum and withholding of removal under sections 208 and 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158 and 1231(b)(3), and protection under the Convention Against Torture.<sup>1</sup> The respondents argue that the Immigration Judge erred in reaching that decision. The Department of Homeland Security ("DHS") has not submitted a brief on appeal. The appeal will be sustained and the record remanded for further findings consistent with this decision.

The respondent is a native and citizen of Honduras who asserts that she suffered past persecution and has a well-founded fear of persecution on account of her membership in a particular social group comprised of her husband's nuclear family (IJ at 10). The Immigration Judge found that the respondent's claim did not meet her burdens of proof. We review the Immigration Judge's findings of fact including determinations of credibility for clear error, but review de novo questions of law, discretion, judgment, and all other issues. 8 C.F.R. §§ 1003.1(d)(3)(i), (ii).

The respondent credibly testified that her husband was targeted by gangs because he was unable to pay their "tax" (IJ at 3, 7). Gang members not only threatened the respondent's husband and their family, but also fired guns at him and killed his cousin (IJ at 4; Tr. at 43-44, 49-51). Although the respondent's family attempted to avoid harm by relocating within Honduras, the gang members located them, causing them to flee to the United States (Tr. at 46-47, 53-55).

The Immigration Judge found that the respondent did not establish that the harm she suffered occurred on account of a statutorily protected ground (IJ at 11). The respondent argues that the Immigration Judge's finding is clearly erroneous because her family identity is at least one central

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<sup>1</sup> The lead respondent ([REDACTED] 428) is the mother of the minor respondents ([REDACTED]). Inasmuch as the minor respondents are derivatives on their mother's applications for relief, we will refer to the lead respondent as the respondent for the remainder of the decision.

reason for the gang's interest in harming her. 8 C.F.R. § 1003.1(d)(3)(i). *See Matter of N-M-*, 25 I&N Dec. 526, 532 (BIA 2011) (a persecutor's motive is a question of fact and subject to clear error review); *see also Matter of J-B-N- & S-M-*, 24 I&N Dec. 208 (BIA 2007) (motive findings are factual). The respondent argues on appeal that although the gang targeted her husband for money, they targeted her and their children because of their relationship to her husband (Respondent's Br. at 7; Tr. at 40, 60-61). In other words, the respondent asserts that her membership in her nuclear family was one central reason for the gang threatening and harming her.

This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit, which has cautioned this Board against applying an excessively narrow interpretation of the nexus requirement in cases involving particular social groups defined by family identity. *See Cruz v. Sessions*, 853 F.3d 122, 129-30 (4th Cir. 2017) (finding nexus when wife was targeted by her deceased husband's boss because she confronted him and his role in her husband's death); *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 949-50 (4th Cir. 2015) (finding nexus when mother was targeted by gangs because she attempted to protect her son from gang recruitment); *see also Velasquez v. Sessions*, 866 F.3d 188 (4th Cir. 2017) (distinguishing a personal intra-family dispute from cases involving non-familial actors (such as gangs) engaged in persecution on account of family membership). Inasmuch as the respondent credibly testified that gangs targeted her and her children because they wanted to harm her husband's family, we conclude that under Fourth Circuit precedent the Immigration Judge's nexus finding is clearly erroneous. *Id.*

The Immigration Judge did not reach the issues of past persecution, well-founded fear of persecution (asylum), or whether the respondent will more likely than not be persecuted (withholding of removal). Consequently, we find it necessary to remand the record for further findings in that regard.

Finally, with regard to the respondent's request for protection under the Convention Against Torture, the Immigration Judge's conclusion that the respondent's testimony and background evidence do not demonstrate that the respondent would more likely than not be tortured in Honduras, by or with the acquiescence of a public official or other person acting in an official capacity, is not clearly erroneous (IJ at 12-13). *See* 8 C.F.R. §§ 1208.16(c) and 1208.18(a); *see also Turkson v. Holder*, 667 F.3d 523 (4th Cir. 2012); *Matter of Z-Z-O-*, 26 I&N Dec. 586 (BIA 2015). While the Department of State Country Reports for Honduras reveal that gang violence is widespread and that police corruption exists, the reports do not indicate that these problems are so rampant as to render clearly erroneous the Immigration Judge's determination that the respondent did not adequately support her claim that she in particular will more likely than not suffer torture with the acquiescence of a public official.

ORDER: The appeal is sustained in part and the record remanded for further findings consistent with this decision.

  
FOR THE BOARD