



**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

**Rasul, Faize  
Law Office of Faize Rasul  
6201 Leesburg Pike  
Suite 323  
Falls Church, VA 22044**

**DHS/ICE Office of Chief Counsel - BAL  
31 Hopkins Plaza, Room 1600  
Baltimore, MD 21201**

**Name: A [REDACTED] -P [REDACTED], K [REDACTED] A [REDACTED] ... A [REDACTED] -625  
Riders: [REDACTED]**

**Date of this notice: 3/7/2019**

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:  
Adkins-Blanch, Charles K.  
Kelly, Edward F.  
Mann, Ana

Userteam: Docket

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Falls Church, Virginia 22041

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Files: A [REDACTED]-625 – Baltimore, MD  
A [REDACTED]

Date:

**MAR - 7 2019**

In re: K [REDACTED] A [REDACTED] A [REDACTED]-P [REDACTED]  
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS:<sup>1</sup> Faize Rasul, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent appeals from the Immigration Judge's decision dated January 4, 2018, which denied her application for asylum and withholding of removal under sections 208 and 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158, 1231(b)(3), and protection under the Convention Against Torture, 8 C.F.R. § 1208.16(c). The Department of Homeland Security has not replied to the respondent's brief on appeal. The appeal will be dismissed in part, and 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, and judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

We agree with the Immigration Judge that the respondent, though credible, has not met her burden of proof for asylum. The respondent claimed that she was sexually assaulted by three different family members and that a gang member threatened her and the minor co-respondent when she rejected his advances (IJ at 3-4; Exh. 4 at Tab A). The Immigration Judge concluded that the evidence was not sufficient to demonstrate that either the respondent or the minor respondent were or would be targeted on account of a protected ground (IJ at 8-9).

On appeal, the respondent argues that she was targeted as a member of a particular social group defined as Honduran women living alone. Respondents' Br. at 6-7. We agree with the Immigration Judge that the case on which the respondent relies, which originates outside the United States Court of Appeals for the Fourth Circuit, is not binding (IJ at 8 n.2). *See Matter of Anselmo*, 20 I&N Dec. 25, 31 (BIA 1989). The respondent does not otherwise persuasively argue on appeal that the proposed group is sufficiently particular or cite evidence of record demonstrating that the group has the social distinction necessary to be a legally cognizable particular social group.

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<sup>1</sup> The respondents, both natives and citizens of Honduras, are an adult female and a minor child. All references to the respondent are to the adult female, the lead respondent in this case.

Respondents' Br. at 7. *See Matter of M-E-V-G-*, 26 I&N Dec. 227, 244 (BIA 2014). Vulnerability to crime is not a basis for asylum. *Matter of A-B-*, 27 I&N Dec. 316, 320, 335 (A.G. 2018).

Inasmuch as the respondent has not met her burden of showing past persecution or a well-founded fear of persecution as required for asylum, it follows that she has also failed to satisfy the higher standard of a clear probability of persecution as required for withholding of removal (IJ at 10). *See INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987); *INS v. Stevic*, 467 U.S. 407 (1984).

The Immigration Judge also found that neither respondent has established eligibility for protection under the Convention Against Torture (IJ at 10-11). 8 C.F.R. §§ 1208.16(c)(2), 1208.18(a)(1). The respondent does not contest this determination on appeal. Thus, we will dismiss the respondent's appeal.

With respect to the minor respondent's asylum application, we find that a remand is warranted. The respondent argues that she was targeted on account of membership in a proposed social group defined as family members of the lead respondent (IJ at 8; Exh. 5 at 5). Respondents' Br. at 3-6. The Immigration Judge found that the death threats the alleged persecutor made against the minor respondent were motivated by vengeance and retribution (IJ at 9). However, the Immigration Judge does not cite any evidence indicating that the vengeance and retribution was related to anything that occurred between the minor respondent and the persecutor; rather, the Immigration Judge recounted the respondent's testimony that the alleged persecutor threatened to rape and kill the minor respondent because the respondent refused his advances (IJ at 3). The Fourth Circuit has found a nexus to family relationship when the alien was threatened as a result of or as revenge for the acts of a family member. *See Salgado-Sosa v. Sessions*, 882 F.3d 451, 457-59 (4th Cir. 2018); *Zavaleta-Policiano v. Sessions*, 873 F.3d 241, 248-50 (4th Cir. 2017). *Compare Velasquez v. Sessions*, 866 F.3d 188 (4th Cir. 2017). Motivation for alleged persecution is a classic factual question. *Zavaleta-Policiano v. Sessions*, 873 F.3d at 248. Consequently, it is essential that the factual findings identify to whom the revenge or retribution is directed, and the reason why. The Immigration Judge's factual findings concerning the motive for the threats directed against the minor respondent here are incomplete and therefore insufficient for purposes of review, requiring a remand. *See* 8 C.F.R. § 1003.1(d)(3)(iv). Accordingly, the following orders will be entered.

ORDER: The respondent's appeal is dismissed.

FURTHER ORDER: With respect to the appeal of the minor respondent, the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

  
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FOR THE BOARD