



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: T [REDACTED]-F [REDACTED], J [REDACTED] L [REDACTED]... A [REDACTED]-170

Date of this notice: 8/11/2020

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:
Pepper, S. Kathleen

Userteam: Docket

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RC

Falls Church, Virginia 22041

File: A [REDACTED]-170 – New York, NY

Date: AUG 11 2020

In re: J [REDACTED] L [REDACTED] T [REDACTED]-F [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Rebecca Medina, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent, a native and citizen of El Salvador, appeals from the Immigration Judge's June 28, 2018, decision denying his applications 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 for protection under the Convention Against Torture. *See* 8 C.F.R. §§ 1208.16-1208.18. The record will be remanded to the Immigration Judge for the entry of a new decision.

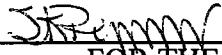
We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a *de novo* standard. 8 C.F.R. § 1003.1(d)(3)(ii).

We conclude that it is necessary to remand the record for further analysis and for the entry of a new decision. During proceedings below, the respondent stated that he fears persecution on account of membership in a particular social group that he defined as "El Salvadorian men who refuse to pay extortion money to gangs" (Tr. at 7). On appeal, the respondent correctly argues that the Immigration Judge erred in adding an additional clause to his proposed particular social group. The Immigration Judge identified the proposed group as "Salvadorian men who refuse to pay extortion money to gangs *and, as a consequence, run into threats and risks of violence from gangs*" (IJ at 3) (additional language italicized). The respondent further argues that this additional clause, which was not part of the respondent's original definition, provided support for the Immigration Judge's conclusion that the proposed particular social group is not cognizable because it is circularly defined by the experience or risk of harm (IJ at 3). On remand, the Immigration Judge should therefore analyze the respondent's claim based on the proposed particular social group that was initially set forth by the respondent.

We also conclude that the Immigration Judge's June 28, 2018, decision contains insufficient findings of fact for our review. *See Matter of S-H-*, 23 I&N Dec. 462 (BIA 2002). The Immigration Judge properly noted significant precedent, including the Attorney General's decision in *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018). However, the Immigration Judge's decision is conclusory in stating the respondent is ineligible for relief based on recent precedent without having made clear findings of fact. On remand, the Immigration Judge should therefore make clear findings of fact and accompanying conclusions of law in adjudicating the respondent's applications for asylum, withholding of removal, and protection under the Convention Against Torture. We express no opinion as to the outcome of that analysis.

Following completion of a new decision, the Immigration Judge shall certify the record to the Board. The Board will thereafter give the parties an opportunity to submit briefs in accordance with the regulations.

ORDER: The record is remanded to the Immigration Judge for the preparation of a new decision and for certification to the Board thereafter.



FOR THE BOARD