



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

Matus, Roberto
Law Offices of Roberto Matus, PA
28 West Flagler Street
Suite 301
Miami, FL 33130

DHS/ICE Office of Chief Counsel - MIA
333 South Miami Ave., Suite 200
Miami, FL 33130

Name: L [REDACTED]-M [REDACTED], A [REDACTED] A.

A [REDACTED]-585

Date of this notice: 10/22/2015

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:
Greer, Anne J.
Miller, Neil P.
O'Herron, Margaret M

taylor

Userteam: Docket

For more unpublished BIA decisions, visit
www.irac.net/unpublished/index/

Immigrant & Refugee Appellate Center, LLC | www.irac.net

Falls Church, Virginia 22041

File: [REDACTED] 585 -- Miami, FL

Date: **OCT 22 2015**

In re: A [REDACTED] A. L. [REDACTED]-M [REDACTED] a.k.a. [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Roberto Matus, Esquire

ON BEHALF OF DHS: Matthew Kovachy
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent, a native and citizen of Nicaragua, has filed a timely appeal from the Immigration Judge's June 13, 2008, decision denying her application for asylum and withholding of removal and her request for protection under the Convention Against Torture. The record will be remanded.

The Immigration Judge found that, due to inconsistencies, the respondent was not credible regarding her claim that she was abused over a period of years by her husband in Nicaragua. As the Immigration Judge noted, the respondent did not mention fear of her husband when she first entered the United States. However, she testified that she was afraid at that point, the person questioning her was "aggressive," and she feared she would be deported. Tr. at 59. The respondent reiterated this claim during a credible fear interview conducted some weeks later, and also then made the claims about her fear of her husband.

The United States Court of Appeals for the Eleventh Circuit, where this case arises, has noted that the reliability of an airport or border interview may be affected by an alien's feeling intimidated by official questioning or due to coercive experiences in the country of origin. See *Tang v. U.S. Atty. Gen.*, 578 F.3d 1270 (11th Cir. 2009). Further, although the Immigration Judge in this case discussed some discrepancies in the dates when the respondent stated she was abused and went to the hospital, the overall claim, from the credible fear interview, the asylum application, and the respondent's testimony, is that the respondent suffered regular abuse, not just several instances of abuse that required hospitalization. The respondent also supported her claim with documentary evidence indicating that she was abused, although the Immigration Judge found this evidence suspect and expressed the view that the respondent was "tailoring her oral testimony" based on the documentary evidence. I.J. at 11.

Given the overall consistency of the respondent's claim and the documentary evidence supporting it, we find the Immigration Judge's adverse credibility determination to be clearly erroneous, and that finding will be reversed.

The Immigration Judge also found that, assuming the abuse occurred, it was not inflicted on account of the respondent's membership in a particular social group or other protected ground. Since the time of the respondent's hearing, the Board has issued several decisions addressing the issue of particular social group, including the question whether domestic violence can form the basis for an asylum claim. See *Matter of M-E-V-G-*, 26 I&N Dec. 227 (BIA 2014), and *Matter of W-G-R-*, 26 I&N Dec. 208 (BIA 2014) (clarifying what is required to establish a particular social group); *Matter of A-R-C-G-*, *supra* (discussing particular social group in the context of cases involving domestic violence). These decisions may have an impact on the respondent's case, and warrant a remand. On remand, the parties should be given the opportunity to present additional evidence and arguments regarding particular social group and nexus, as they may apply to this case, as well as any other relevant issues.

Accordingly, the following orders will be entered.

ORDER: The Immigration Judge's finding that the respondent was not credible is reversed.

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



FOR THE BOARD