



**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

**Echevarria, Gloria Sarahi  
Iris Juarbe Attorney at Law, P.C.  
6910 Bellaire Blvd., Ste. 1  
Houston, TX 77074**

**DHS/ICE Office of Chief Counsel - HOD  
126 Northpoint Drive, Suite 2020  
HOUSTON, TX 77060**

**Name: C [REDACTED] -B [REDACTED], [REDACTED]**

**A [REDACTED] -441**

**Date of this notice: 1/25/2018**

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:  
Pauley, Roger  
Wendtland, Linda S.  
Greer, Anne J.

User team: Docket

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Falls Church, Virginia 22041

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File: [REDACTED] 441 – Houston, TX

Date:

JAN 25 2018

In re: I-C-B-[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Gloria Sarahi Echevarria, Esquire

ON BEHALF OF DHS: Jennifer Riester  
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent is a 21-year-old native and citizen of Mexico. In a decision dated July 28, 2017, an Immigration Judge found the respondent removable as charged, denied his applications for asylum under section 208 of the Immigration and Nationality Act, 8 U.S.C. § 1158, withholding of removal under section 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3), protection under the Convention Against Torture, and ordered him removed from the United States to Mexico. The respondent appealed. The appeal will be sustained.

The respondent testified that he obtained lawful permanent residence through his step-father, and that he had been in Mexico for 3 days visiting family, and that he was fishing with friends in Mexico when armed men, who he thought were members of the Zeta Cartel, stopped the respondent and his friends because one of the respondent's friends was thought to have stolen drugs (IJ at 4; Tr. at 85-91, 117-19). The respondent testified that he had never experienced any problems in Mexico prior to this incident (IJ at 6; Tr. at 120). While the Zetas were kicking his friend, the respondent was able to escape unharmed, and he crossed back into the United States, and was charged with illegal entry (IJ at 5; Tr. at 93-101). The respondent testified that he fears return to Mexico because he believes that the Zetas want to kill him for whatever his friend stole from them, and he also fears the government is involved with organized crime (IJ at 5; Tr. at 120-21). He also fears return due to an anti-gang imputed political opinion (Tr. at 142-43).

The Immigration Judge noted that the respondent admitted alienage and based on the record, including the Record of Deportable/Inadmissible Alien, she found the respondent removable as charged (IJ at 8-9; Exhs. 1, 2; Tr. at 28, 79-80). The Immigration Judge found that the respondent provided plausible and consistent testimony and that he was credible (IJ at 8). Further, the Immigration Judge found that the mistreatment experienced by the respondent during his altercation with the Zetas did not rise to the level of harm required to establish past persecution (IJ at 10-12; *see Arif v. Mukasey*, 509 F.3d 677, 680 (5th Cir. 2007) (noting persecution is an extreme concept that does not include all treatment our society regards as offensive). In addition, the Immigration Judge found that the respondent has not demonstrated that he suffered past persecution or that he has a well-founded fear of future persecution on account of membership in a particular social group, political opinion, or another protected ground under the Act, and that he necessarily failed to establish his entitlement to withholding of removal (*see* IJ at 12-17, 21). *See*

section 208(b)(1)(B)(i) of the Act; *Thuri v. Ashcroft*, 380 F.3d 788 (5th Cir. 2004) (finding that conduct driven by criminal, non-political motives is not persecution on account of a protected ground). The Immigration Judge also found that the respondent had not demonstrated that "it is more likely than not" he would be tortured if removed to Mexico (IJ at 22-24). See 8 C.F.R. § 1208.16(c)(2).

On appeal, the respondent contests removability and contends he should be exempted from section 101(a)(13)(C)(vi) of the Act, 8 U.S.C. § 1101(a)(13)(C)(vi), because he was forced to cross into the United States at a place other than a port of entry in order to save his life (Respondent's Brief at 5). We agree. We note that the respondent's involuntary reentry into the United States is consistent with *Rosenberg v. Fleuti*, 374 U.S. 449 (1963); see *Vartelas v. Holder*, 566 U.S. 257 (2012). Inasmuch as the respondent is still a lawful permanent resident, the proceedings will be terminated.

Accordingly, the following order will be entered.

ORDER: The respondent's appeal is sustained and the proceedings are terminated.

  
FOR THE BOARD