



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: L [REDACTED] M [REDACTED], R [REDACTED]

A [REDACTED]-649

Date of this notice: 1/23/2020

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:
Goodwin, Deborah K.**

**MalikAr
Userteam: Docket**

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RL

Falls Church, Virginia 22041

File: [REDACTED]-649 – Los Angeles, CA

Date:

JAN 23 2020

In re: R [REDACTED] L [REDACTED] M [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Patricia G. Gittelson, Esquire

APPLICATION: Withholding of removal

In a decision dated March 30, 2016, this Board dismissed the respondent's appeal from an Immigration Judge's decision denying her applications for asylum, withholding of removal, and protection under the Convention Against Torture, and ordering her removal to El Salvador. The respondent thereafter filed a petition for review with the United States Court of Appeals for the Ninth Circuit. On May 24, 2019, the Ninth Circuit granted the petition for review in part and remanded the record to this Board for further proceedings regarding the respondent's eligibility for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1231(b)(3), in light of *Barajas-Romero v. Lynch*, 846 F.3d 351, 360 (9th Cir. 2017).¹ The record will be remanded.

The *Barajas-Romero* opinion was issued subsequent to this Board's March 30, 2016 decision. It held that the proper standard for evaluating nexus in the withholding of removal context is that a protected ground must be "a reason," rather than "one central reason" for an alien's persecution. *Id.* The Ninth Circuit determined that the Immigration Judge and this Board erroneously applied the "one central reason" nexus test in evaluating the respondent's withholding of removal claim, rather than the less demanding "a reason" test. *Id.* Remand to the Immigration Judge is required here because application of the "a reason" nexus test requires fact-finding, which is not this Board's function. See 8 C.F.R. § 1003.1(d)(3)(iv); *Matter of N-M-*, 25 I&N Dec. 526, 532 (BIA 2011) (holding that nexus is a finding of fact); *Matter of D-I-M-*, 24 I&N Dec. 448, 451 (BIA 2008) (explaining that this Board has limited fact-finding ability).

Accordingly, the following order shall be issued.

ORDER: The record is remanded to the Immigration Judge for further action consistent with the foregoing opinion and for entry of a new decision.


FOR THE BOARD

¹ The Ninth Circuit dismissed the petition for review with regard to asylum and protection under the Convention Against Torture.