

Matter of G-R-B-, Respondent

Decided September 29, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

An Immigration Judge may pretermite an application for asylum and withholding of removal without the filing of a motion by the Department of Homeland Security.

FOR THE RESPONDENT: Alex M. Torres, Esquire, Bellaire, Texas

BEFORE: Board Panel: GORMAN, Deputy Chief Appellate Immigration Judge; GALLOW and HANSELL, Appellate Immigration Judges.

GORMAN, Deputy Chief Appellate Immigration Judge:

The respondent, a native and citizen of Mexico, appeals from the Immigration Judge's May 5, 2026, decision premitting his application for asylum under section 208(b)(1)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1158(b)(1)(A) (2024), withholding of removal under section 241(b)(3)(A) of the INA, 8 U.S.C. § 1231(b)(3)(A) (2024), and protection under the regulations implementing the Convention Against Torture.¹ We will dismiss the appeal.

The respondent fears private-actor harm in Mexico based on race and membership in a particular social group.² We affirm the Immigration Judge's premission of the respondent's application for asylum and withholding of removal on the basis that the respondent did not set forth prima facie claims for the forms of relief sought. *Matter of H-A-A-V-*, 29 I&N Dec. 233, 238 (BIA 2025). As discussed in the Immigration Judge's decision, the respondent did not allege any prior harm on account of his race

¹ The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994). 8 C.F.R. §§ 1208.16(c), 1208.17 (2026); 8 C.F.R. § 1208.18(a) (2020).

² The respondent failed to make any meaningful arguments on appeal challenging the Immigration Judge's determination that his proposed social group is not cognizable and that his asylum claim was untimely filed. Accordingly, we find these issues waived on appeal. See *Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (stating that issues not meaningfully developed on appeal may be deemed waived).

that rose to the level of persecution, and he did not identify any specific evidence suggesting that he has a well-founded fear of being persecuted in Mexico based on his race in the future. The respondent also did not identify any past torture or specific evidence that would suggest a likelihood of future torture.

Rather than meaningfully contesting the Immigration Judge's substantive determinations, the respondent instead argues that the Immigration Judge should have further developed the record as to these issues rather than premitting his application for relief. However, as we held in *Matter of H-A-A-V-*, 29 I&N Dec. at 234–36, an Immigration Judge need not conduct an evidentiary hearing where an application does not set forth a prima facie claim for relief. The respondent has not identified any evidence or aspect of his application that was overlooked by the Immigration Judge. Therefore, we affirm the Immigration Judge's premission of such application.³

We disagree with the respondent's appellate argument that the Immigration Judge should not have premitted his application absent a motion from the Department of Homeland Security ("DHS").⁴ It is well-established that an applicant in removal proceedings bears the burden of proof to demonstrate eligibility for the relief sought. INA § 240(c)(4), 8 U.S.C. § 1229a(c)(4) (2024); *Garland v. Ming Dai*, 593 U.S. 357, 371 (2021). An agency need not conduct a hearing where there is no genuine and substantial issue of fact in the record. See *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620–21 (1973) (agreeing with the agency that a hearing is not required "where it is apparent at the threshold that the applicant has not tendered any evidence which on its face meets the statutory standards as particularized by the regulations"). Moreover, "Immigration Judges have broad discretion in conducting immigration proceedings and admitting and considering evidence." *Matter of J-H-M-H-*, 29 I&N Dec. 278, 280 (BIA 2025) (citing *Matter of Interiano-Rosa*, 25 I&N Dec. 264, 265 (BIA 2010)). Thus, an Immigration Judge may premit an

³ We need not reach the issue of whether the respondent's application was also materially incomplete. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (holding that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach").

⁴ The cases cited by the respondent from jurisdictions outside the United States Court of Appeals for the Fifth Circuit are not binding in this matter. *Matter of Anselmo*, 20 I&N Dec. 25, 31 (BIA 1989); see also *Matter of U. Singh*, 25 I&N Dec. 670, 672 (BIA 2012) (stating that the Board "appl[ies] the law of the circuit in cases arising in that jurisdiction").

application for asylum and withholding of removal without the filing of a motion by DHS.

The respondent in this case had the appropriate opportunity to submit evidence in support of his application for relief and to set forth the basis for his claims. *See* INA § 240(b)(4)(B), 8 U.S.C. § 1229a(b)(4)(B) (2024). After reviewing the respondent's application and supporting evidence, the Immigration Judge properly concluded that it was unnecessary to conduct further proceedings. *See Matter of H-A-A-V-*, 29 I&N Dec. at 234–35; *see also* 8 C.F.R. § 1003.29 (2020) (noting an Immigration Judge's discretionary authority to assess whether good cause exists for continued proceedings). The respondent has not identified any legal authority that supports the proposition that an Immigration Judge can make such a *prima facie* determination only on motion by DHS.

For these reasons, we affirm the Immigration Judge's pretermission of the respondent's application.⁵

ORDER: The respondent's appeal is dismissed.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by DHS, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to \$998 for each day the respondent is in violation. *See* INA § 274D (2024), 8 U.S.C. § 1324d; 8 C.F.R. § 280.53(b)(14) (2026). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than 2 years, or both. *See* INA § 276(a), 8 U.S.C. § 1326(a) (2024).

⁵ We are also not persuaded that the Immigration Judge lacked impartiality in making this *prima facie* determination.