Matter of K-Y-V-R-, Respondent

Decided by Board September 10, 2026 [1]

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

The Immigration Judge's determination that the respondent established the requisite likelihood of future torture was speculative and unsupported by the record where the Immigration Judge relied heavily on general country conditions evidence that was not particular to the respondent and did not show that the respondent could not internally relocate to avoid future torture.

FOR THE RESPONDENT: Alfonso Caprara, Esquire, Philadelphia, Pennsylvania

FOR THE DEPARTMENT OF HOMELAND SECURITY: Norman Millard, Assistant Chief Counsel

BEFORE: Board Panel: RADICS, Deputy Chief Appellate Immigration Judge; MAHTABFAR, Appellate Immigration Judge; WHITE, Temporary Appellate Immigration Judge.

MAHTABFAR, Appellate Immigration Judge:

The Department of Homeland Security ("DHS") appeals from the Immigration Judge's January 21, 2020, decision granting withholding of removal under the regulations implementing the Convention Against Torture ("CAT") to the respondent, a native and citizen of El Salvador.[2] 8 C.F.R. §§ 1208.16(c), 1208.17 (2026); 8 C.F.R. § 1208.18(a) (2020). The respondent opposes the appeal.[3] The appeal will be sustained, the

[1] Pursuant to Order No. 7272-2026, dated October 27, 2026, the Attorney General designated the Board's decision in *Matter of K-Y-V-R-* (BIA Sep. 10, 2026), as precedent in all proceedings involving the same issue or issues. *See* 8 C.F.R. § 1003.1(g)(3) (2026). Editorial changes have been made consistent with the designation of the case as a precedent.

[2] 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).

[3] The respondent has not challenged the Immigration Judge's denial of his applications for asylum under section 208(b)(1)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1158(b)(1)(A) (2018), and withholding of removal under section 241(b)(3)(A) of the INA, 8 U.S.C. § 1231(b)(3)(A) (2018). We, therefore, deem any challenge to the

Immigration Judge's January 21, 2020, decision will be vacated, and the respondent will be ordered removed from the United States.

To establish eligibility for CAT protection, a respondent must demonstrate that it is more likely than not that he will be tortured in his home country by or with the consent or acquiescence, to include willful blindness, of a public official or other person acting in an official capacity. 8 C.F.R. §§ 1208.16(c)–1208.18(a). The United States Court of Appeals for the Third Circuit, the jurisdiction in which this case arises, has held that an Immigration Judge must engage in a two-step inquiry when evaluating a claim for protection under the CAT: the Immigration Judge must 1) examine what is likely to happen to the respondent if he is removed, and 2) determine whether what is likely to happen amounts to the legal definition of torture. *Myrie v. Att'y Gen. U.S.*, 855 F.3d 509, 516 (3d Cir. 2017). The question of what will happen to a respondent is a factual finding for the Immigration Judge to make that we review for clear error. *Id.* at 516–17. Whether such harm amounts to torture is a legal determination that we review de novo. *Id*.

In the present case, the respondent fears future torture from Salvadoran gang members who attempted to recruit him on multiple occasions from when he was a young child until he left the country when he was 17 years old. The respondent testified that gang members threatened him, threw rocks at his home, and, on one occasion, physically assaulted him at his school because of his refusal to join their gang. The Immigration Judge concluded that the respondent had demonstrated a likelihood of future torture upon his return to El Salvador because of his prior refusals to comply with the gang members' demands. The Immigration Judge further cited to country conditions evidence in the record discussing the prevalence of gang violence in El Salvador.

We conclude that the Immigration Judge's determination as to the likelihood of the respondent's future torture upon his return to El Salvador is speculative and unsupported by the record. *See Matter of N-N-B-*, 29 I&N Dec. 79, 80–81 (BIA 2025); *see also Matter of J-F-F-*, 23 I&N Dec. 912, 917–18 (A.G. 2006). The Immigration Judge relied heavily on general country conditions evidence that is not particular to the respondent and does not sufficiently establish that the unknown gang members the respondent fears remain interested in targeting him in the future. *See Hernandez Garmendia v. Att'y Gen. U.S.*, 28 F.4th 476, 484 (3d Cir. 2022) ("The specter

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denial of these applications waived. *See Matter of P-B-B-*, 28 I&N Dec. 43, 44 n.1 (BIA 2020) (stating that arguments not raised on appeal are deemed waived).

of torture must be supported by specific evidence that the individual applicant is more likely than not to be singled out."); *see also Matter of O-Y-A-E-*, 29 I&N Dec. 190, 193 (BIA 2025) (explaining that an application for CAT protection must demonstrate a particularized threat of torture); *Matter of A-A-R-*, 29 I&N Dec. 38, 41–42 (BIA 2025) (explaining that evidence of widespread violence does not necessarily mean a respondent could show that there is a clear probability he faces a particularized risk of torture). The respondent did not provide testimony that the gang members who threatened him when he was a minor have looked for his whereabouts since he left El Salvador in 2015. The record is also devoid of any evidence that his family members residing in El Salvador or anyone close to the respondent have been questioned or targeted by gang members since the respondent left the country.

We further conclude that the Immigration Judge's findings regarding the respondent's inability to internally relocate are unsupported by the record. *See* 8 C.F.R. § 1208.13(b)(1)(i)(B), (2)(ii) (2026), 8 C.F.R. § 1208.13(b)(3) (2020); *see also Matter of M-Z-M-R-*, 26 I&N Dec. 28, 32–36 (BIA 2012). The Immigration Judge's finding that the respondent would face difficulties relocating in El Salvador because of his "limited education, lack of job experience, and lack of close family ties remaining in El Salvador" is not supported by the record. The respondent did not previously attempt to relocate within El Salvador. The respondent testified that while most of his family members reside in the United States, he has uncles who work as police officers in El Salvador. The respondent is also now an able-bodied adult, and the record does not show that he would be prevented from relocating away from his hometown where he was threatened by gang members as a minor and obtaining employment in a different part of El Salvador. The generalized country conditions evidence cited in the decision further does not support the Immigration Judge's predictive finding that the respondent would be unable to relocate within El Salvador to avoid any future torture.

In considering the foregoing, the Immigration Judge's predictive factual findings draw unsupported inferences from the record and fall short of demonstrating that the respondent met his burden of proof for protection under the CAT. As the foregoing is dispositive, we need not address the Immigration Judge's determination regarding government acquiescence on appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach."). Thus, we will sustain DHS' appeal, vacate the Immigration Judge's decision granting protection under the CAT, and order the respondent removed to El Salvador.

ORDER: DHS' appeal is sustained.

FURTHER ORDER: The Immigration Judge's January 21, 2020, decision granting protection under the CAT is vacated.

FURTHER ORDER: The respondent is ordered removed to El Salvador.

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* § 274D, 8 U.S.C. § 1324d (2024); 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).