Matter of K-L-S-, Respondent

Decided November 18, 2026

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

(1) Simply presenting hypothetical arguments and suggested alternative views of the evidence is not sufficient to establish clear error in the factual findings of the Immigration Judge.

(2) An appeal based merely on conjecture and speculation lacks an arguable basis in fact or in law, serves no purpose other than to create delay, and is legally inappropriate.

FOR THE RESPONDENT: Jaspreet Singh, Esquire, Richmond Hill, New York

FOR THE DEPARTMENT OF HOMELAND SECURITY: Kourtney A. Greenfield, Assistant Chief Counsel

BEFORE: Board Panel: HUNSUCKER and GEMOETS, Appellate Immigration Judges, PICOS, Temporary Appellate Immigration Judge.

HUNSUCKER, Appellate Immigration Judge:

In a decision dated August 17, 2021, the Immigration Judge denied the respondent's 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), withholding of removal under section 241(b)(3)(A) of the INA, 8 U.S.C. § 1231(b)(3)(A) (2018), and protection under the regulations implementing the Convention Against Torture ("CAT").[1] The Immigration Judge found the respondent not credible and determined that he filed a frivolous asylum application. The respondent has appealed from that decision, and the Department of Homeland Security ("DHS") opposes the appeal. We will dismiss the appeal.

The respondent, a native and citizen of India, claims past persecution and a well-founded fear of future persecution on account of his political opinion, specifically his membership in the Shiromani Akali Dal Amritsar ("Mann") party. The respondent alleges that he was hanging posters on behalf of his party when four members of the Bharatiya Janata Party ("BJP") confronted

[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).

him, tore down the posters, punched him, and told him to join their party. The respondent testified that when he reported this incident to police, the police refused to take a report and threatened to jail or file false charges against him for making a claim against the ruling party.

The respondent asserts that he was assaulted by BJP members a second time when he was returning home on his motorbike after working for a poor girl's wedding. He testified that he recognized one of the assailants as a member of the BJP and that the car driven by the assailants had a BJP emblem on it.

The Immigration Judge denied all relief after finding the respondent not credible. The Immigration Judge further determined that the respondent knowingly and deliberately filed a frivolous asylum application.

I. CREDIBILITY

"All applications for asylum and withholding of removal require a threshold determination of the applicant's credibility." *Kegeh v. Sessions*, 865 F.3d 990, 995 (8th Cir. 2017) (citation omitted). "Adverse credibility determinations must be supported by specific, cogent reasons for disbelief." *Zongo v. Garland*, 71 F.4th 656, 658 (8th Cir. 2023) (citation omitted). The Immigration Judge must consider the totality of the circumstances and all relevant factors when assessing an asylum applicant's credibility. INA § 208(b)(1)(B)(iii), 8 U.S.C. § 1158(b)(1)(B)(iii). Among the relevant factors to consider are "the internal consistency of each [written and oral] statement, [and] the consistency of such statements with other evidence of record." *Id.*

The Immigration Judge cited numerous inconsistencies within the respondent's testimony and between the respondent's testimony and the documentary evidence. For example, the Immigration Judge found the respondent gave inconsistent testimony about how he was beaten, variously describing being kicked and punched or being hit with sticks and batons. The Immigration Judge was not persuaded by the respondent's explanation that he thought this information was not important. The Immigration Judge also cited inconsistencies in the respondent's testimony about the nature of his injuries, which side of his body they were on, and how they were sustained. She also found the respondent's testimony about the medical treatment he claims to have received internally inconsistent and inconsistent with his witness' testimony about such treatment.

The Immigration Judge also found the respondent's testimony about his activities in support of the Mann party inconsistent with the documentary evidence he submitted. The respondent asserted that his work for the Mann party involved tasks like setting up tents and chairs, distributing food and water, unloading trucks, and hanging posters. However, he submitted a statement from an alleged party official on Mann party letterhead declaring that the respondent spoke on behalf of the party at various rallies and "is a terrific orator" who "influenced a lot of people to join" the party. When confronted with this inconsistency, the respondent was initially nonresponsive but then conceded that the substance of the statement regarding his party activities was inaccurate and that he did not know when this document was created but that it was sent to him by his mother. He confirmed that he never spoke at political rallies.

In addition to inconsistencies in the respondent's testimony, the Immigration Judge relied on two other factors that undermined the respondent's credibility. First, the Immigration Judge found that affidavits claiming to be from neighbors and the respondent's mother were not credible because, other than the individual identifying information, the affidavits are identical, nearly word for word. The affidavits use the same phrases and include the same typographical and grammatical errors. *See Matter of E-F-N-*, 28 I&N Dec. 591, 596 (BIA 2022) (holding that the submission of a declaration and a corroborating affidavit that contained identical, uncommon language was indicative of fraud and undermined the asylum applicant's credibility). The Immigration Judge also observed that the affidavit allegedly from the respondent's mother is essentially a carbon copy of the others and bears no additional information about matters of which she should have personal knowledge, such as the treatment the respondent claims he received from the police or the killing of the respondent's father allegedly by BJP members.

Second, the Immigration Judge found that the redacted copies, submitted by DHS, of 20 declarations filed in other asylum cases set forth stories with "glaring similarities" to the respondent's that "are unlikely the result of coincidence." Specifically, each affidavit states that the affiant worked for a political party in India hanging posters and was accosted by opposing party members who tore down the posters and told the affiant to join their party; the affiant reported this to the police, who refused to take a report because it involved a certain political party and then threatened to arrest the affiant for making a false report; and the affiant was subsequently accosted while on a motorcycle after leaving a party, such as a marriage ceremony.

The respondent was confronted with these declarations and given an opportunity to respond, consistent with the framework prescribed by *Matter of R-K-K-*, 26 I&N Dec. 658, 665 (BIA 2015) (affirming an adverse credibility finding based on striking similarities between asylum declarations). The similarity of the respondent's claims to those presented in numerous other asylum applications calls into question the veracity of his claims and is an appropriate consideration in assessing the respondent's credibility. *See Singh v. Bondi*, 130 F.4th 1142, 1150 (9th Cir. 2025) (stating that it is "appropriate for the agency—in the context of making an adverse credibility finding—to consider substantial and inadequately explained similarities between an applicant's testimony and that of other applicants").

The Immigration Judge's adverse credibility finding is overwhelmingly supported by the record. *See* INA §§ 208(b)(1)(B)(iii), 241(b)(3)(C), 8 U.S.C. §§ 1158(b)(1)(B)(iii), 1231(b)(3)(C); *see also Cooper v. Harris*, 581 U.S. 285, 309 (2017) (noting that, under clear error review, an appellate court may reverse only when "left with the definite and firm conviction that a mistake has been committed" (citation omitted)). The inconsistencies and anomalies relied on by the Immigration Judge are present in the record and support the Immigration Judge's adverse credibility determination. *See Cooper v. Harris*, 581 U.S. at 293 (holding that a finding that is plausible in light of the full record will not be reversed as clearly erroneous). The document submitted by the respondent to demonstrate he is a member of his political party directly conflicted with his testimony. Additionally, the affidavits submitted by the respondent allegedly from family and friends are nearly identical and lack details that credible documents would have contained. Finally, the factual similarity of the respondent's claims to those made by 20 other asylum applicants is undeniable.

On appeal, the respondent presents tepid arguments, such as asserting that it is possible that the respondent's and the other 20 applicants' claims could all be true. These arguments fall far short of demonstrating clear error in the Immigration Judge's adverse credibility finding. *See* 8 C.F.R. § 1003.1(d)(3)(i) (2026) (setting forth the Board's standard of review for factual findings). The respondent's lack of credibility undermines his claims for asylum, withholding of removal, and CAT protection, as they are based on the same underlying factual assertions. *See generally Fofana v. Holder*, 704 F.3d 554, 558 (8th Cir. 2013) (affirming the denial of CAT protection where that claim was "based on the same discredited testimony" as the asylum and withholding of removal claims).

II. FRIVOLOUSNESS

We recognize, as the Court of Appeals for the Ninth Circuit did over a decade ago, "an unfortunate reality that makes immigration cases so different from all other American adjudications: Fraud, forgery and fabrication are so common—and so difficult to prove—that they are routinely tolerated." *Angov v. Lynch*, 788 F.3d 893, 901 (9th Cir. 2015). The Ninth Circuit explained that "[t]he reason for this deplorable state of affairs is . . . [t]he schizophrenic way we administer our immigration laws[, which] creates an environment where lying and forgery are difficult to disprove, richly rewarded if successful and rarely punished if unsuccessful." *Id*.

"[T]he opportunity to be lawfully admitted into the United States . . . is an incalculable benefit" for many living in poverty throughout the world and is "worth a great deal of expense and risk." *Id.* "Telling an elaborate lie, and coming up with forged documents and mendacious witnesses to back it up, is nothing at all when the stakes are so high." *Id*. Immigration fraud is difficult to detect so "the risk of getting caught is low." *Id*. "There's very little the United States can do to investigate obscure incidents that allegedly occurred in countries on the other side of the globe." *Id.* Even when "an alien does get caught lying or committing fraud, he may be ordered removed, but most aliens who aren't in custody remain here long after their removal orders become final[,] [a]nd if they do get sent back . . . [t]hey wind up where they started." *Id*. "Would-be immigrants almost never get prosecuted for presenting forged documents in support of asylum petitions, unless they commit some additional misconduct." *Id*.

Immigration fraud, in general, is rampant, and "[c]ases involving fraudulent asylum claims are distressingly common." *Id*. at 902. "And for every case where the fraud is discovered or admitted, there are doubtless scores of others where the petitioner gets away with it because our government didn't have the resources to expose the lie." *Id*.

Turning to the case at hand, it is clear from the record that this case involves immigration fraud and that the respondent filed a frivolous asylum application. Knowingly filing a frivolous asylum application has a grave consequence—permanent ineligibility for any benefits under the INA. INA § 208(d)(6), 8 U.S.C. § 1158(d)(6) (2024). "[A]n asylum application is frivolous if any of its material elements is deliberately fabricated." 8 C.F.R. § 1208.20 (2020). To support a frivolousness finding, the record must show:

> (1) notice to the alien of the consequences of filing a frivolous application; (2) a specific finding by the Immigration Judge or the Board that the alien knowingly filed a frivolous application; (3) sufficient evidence in the record to support the finding

> that a material element of the asylum application was deliberately fabricated; and (4) an indication that the alien has been afforded sufficient opportunity to account for any discrepancies or implausible aspects of the claim.

Matter of Y-L-, 24 I&N Dec. 151, 155 (BIA 2007).

The respondent does not dispute that he was properly warned of the consequences of filing a frivolous application, was put on notice that DHS believed he fabricated his claim, was given an opportunity to address the discrepancies in his claim, and affirmed the contents of his application. *See Matter of S-M-H-*, 29 I&N Dec. 412, 414–15 (BIA 2026) (holding that the written warning on the asylum application form provides the statutorily required notice of the consequences of filing a frivolous application). Although "a finding of frivolousness does not flow automatically from an adverse credibility determination," the record amply supports the Immigration Judge's conclusion that the respondent's application was frivolous. *Matter of Y-L-*, 24 I&N Dec. at 156 (citation omitted); *see also Matter of B-Y-*, 25 I&N Dec. 236, 240–41 (BIA 2010) (requiring separate consideration of discrepancies for a frivolous finding and explicit findings that fabrications are material and were deliberate).

The record supports the Immigration Judge's finding, which is not clearly erroneous, that the respondent knowingly filed a frivolous asylum application. *See Matter of Y-L-*, 24 I&N Dec. at 159 ("Determining whether a fabrication was knowing or deliberate is a factual question of intent that is reviewed for clear error."). The Immigration Judge determined that the various discrepancies and anomalies in the record evidence involve material elements of the respondent's claim and go to the very heart of his account of persecution. The Immigration Judge found that the fact that virtually every aspect of the respondent's claim has obvious inconsistencies—from his role in the Mann party to the injuries he sustained to whether he went into hiding afterward—indicates that his fabrication of the claim was deliberate. The Immigration Judge also found it "inconceivable" that 20 other individuals could have such precisely similar experiences carried out in precisely the same sequence in different time periods and by different actors.

The respondent argues on appeal that he provided plausible explanations for the inconsistencies in his testimony and that it is not inconceivable that he and the other 20 asylum applicants could have such similar experiences. The respondent's arguments, however, are nonsensical, not supported by the law or the factual record, and unpersuasive. For example, in attempting to explain the inconsistency between his testimony and the party letter regarding his actions in support of the Mann party, the respondent suggests that the author of the party letter may have mislabeled speaking in small

gatherings as speaking at rallies. The respondent, however, points to no evidence to support his claim and it is unbelievable that the author of the party letter would describe the respondent as a "terrific orator" who spoke at various political rallies, when what he meant was simply that the respondent spoke about the party at small gatherings.

The respondent also argues that the similarities in the corroborating affidavits could be attributable to the preparer not knowing each affiant should have their own unique affidavit. He further suggests that the similarities between his and the 20 other asylum applicants' claims could be the result of their bona fide experiences. It is unbelievable that the affidavits submitted by the respondent are nearly identical in substance due to the fault of the preparer. It is likewise unbelievable that the glaring similarities between the respondent's claim and that of 20 other asylum applicants resulted from all of these persons sharing nearly factually identical experiences. More importantly, these arguments lack any evidentiary support in the record. Simply presenting hypothetical arguments and suggested alternative views of the evidence is not sufficient to establish clear error in the factual findings of the Immigration Judge.

An alien "illegally present in the United States who wishes to remain . . . has a substantial incentive to prolong litigation in order to delay physical deportation for as long as possible." *INS v. Rios-Pineda*, 471 U.S. 444, 450 (1985). However, "[t]he purpose of an appeal . . . is not to permit an indefinite stalling of physical departure." *Id.* On the contrary, causing unnecessary delay in the outcome of the proceeding is a clearly improper purpose for an appeal. 8 C.F.R. § 1003.1(d)(2)(i)(D). An appeal based merely on conjecture and speculation lacks "an arguable basis in fact or in law," serves no purpose other than to create delay, and is legally inappropriate. 8 C.F.R. § 1003.1(d)(2)(i)(D) (providing for summary dismissal of such an appeal). Such appeals cannot possibly demonstrate clear error in the findings of the Immigration Judge. Counsel should recognize that filing a frivolous appeal may result in sanction. *See generally* Model Rules of Pro. Conduct r. 3.1 (A.B.A. 2026) ("A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous . . . .").

III. CONCLUSION

We affirm the Immigration Judge's determination that the respondent knowingly filed a frivolous asylum application. The respondent is therefore permanently ineligible for any benefits under the INA. *See* INA § 208(d)(6), 8 U.S.C. § 1158(d)(6). The Immigration Judge's adverse credibility finding

is well supported by the record and is not clearly erroneous. The respondent's lack of credibility undermines all of his claims. The respondent's appeal makes no meaningful arguments of law or fact and was filed for no purpose other than to cause unnecessary delay.

ORDER: The 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, 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).