

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HOUSTON, TEXAS

In the Matters of

[REDACTED]

Respondents.

File Numbers: A 20 [REDACTED] 98 (Lead)
A 20 [REDACTED] 99 (Rider)

CHARGE: Section 237(a)(1)(B) of the Immigration and Nationality Act (INA or Act), as amended, as a nonimmigrant who remained in the United States for a time longer than permitted.

APPLICATIONS: Asylum pursuant to INA § 208(a);
Withholding of Removal pursuant to INA § 241(b)(3);
Withholding of Removal under the Convention Against Torture pursuant to 8 C.F.R. § 1208.16(c).

ON BEHALF OF RESPONDENTS:

Stewart Chih-Hao Lin, Esquire
Lin & Valdez LLP
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Houston, Texas 77036

ON BEHALF OF THE GOVERNMENT:

[REDACTED] Assistant Chief Counsel
Department of Homeland Security
126 Northpoint Drive, Room 2020
Houston, Texas 77060

DECISION OF THE IMMIGRATION JUDGE

I. Procedural History

The respondents¹ are natives and citizens of [REDACTED]. They were admitted to the United States at Los Angeles, California on or about June 18, 2013 as nonimmigrant visitors with authorization to remain in the United States for a temporary period not to exceed December 17, 2013. *See* Exhs. 1. They remained in the United States beyond that date without authorization. *Id.* On September 25, 2013, Respondent affirmatively filed a Form I-589, Application for Asylum and for Withholding of Removal, with the United States Citizenship and Immigration Services (USCIS). Exh. 2. The application was referred to the Immigration Court. On April 24, 2015, the

¹ The cases are consolidated. The lead respondent will be referred to as "Respondent" throughout this decision. Respondent's husband, [REDACTED] A 20 [REDACTED] 99, is a derivative on Respondent's application. Exh. 2. Respondent and [REDACTED] entered the United States at the same time and were simultaneously placed in removal proceedings. Exh. 1; Exh. 1 (A 20 [REDACTED] 99). Both were charged with the same ground of removability under the Immigration and Nationality Act. Exh. 1; Exh. 1 (A 206-538-799).

until her departure in 2013, serving as repeated reminders of the trauma she suffered and that the [REDACTED] government retained control over her autonomy and body. Respondent related to the Asylum Officer that if she returned to [REDACTED], she "would not be able to get away from the shadow of heartbreaking, suffering, and fear." Exh. 5 at 13.

In light of the foregoing, the Court finds that the severity of the heinous persecution Respondent endured in [REDACTED] which resulted in the loss of her child and ongoing physical, mental, and emotional suffering, constitute compelling reasons for being unable or unwilling to return to [REDACTED] due to the past persecution. Accordingly, the Court finds that Respondent is eligible for humanitarian asylum under 8 C.F.R. § 1208.13(b)(1)(iii)(A).

C. Discretion

Asylum is a discretionary form of relief. *See* INA § 208(b)(1)(A). In determining whether a favorable exercise of discretion is warranted, both favorable and adverse factors should be considered under the totality of the circumstances. *Matter of H-*, 21 I&N Dec. 337, 347 (BIA 1996); *Matter of Pula*, 19 I&N Dec. 467, 473 (BIA 1987). Humanitarian factors, such as age, health, or family ties, should be considered in the exercise of discretion. *H-*, 21 I&N Dec. at 347-48. Serious adverse factors can include the fraudulent circumvention of orderly refugee procedures or participation in violent crime. *Pula*, 19 I&N Dec. at 473; *Matter of McMullen*, 19 I&N Dec. 90, 99 (BIA 1984). However, "the danger of persecution should generally outweigh all but the most egregious . . . adverse factors." *Pula*, 19 I&N Dec. at 474.

As previously indicated, the Court finds that Respondent is statutorily eligible for asylum and deserving of relief. The Court finds that the favorable factors in this case outweigh any adverse factors. Respondent does not appear to have any criminal history, and she entered the United States lawfully on a visitor visa. *See* Exh. 2 at 1, 6; Exh. 1. As such, the Court finds Respondent warrants a favorable exercise of discretion and will grant her application for asylum.

Because the Court will grant Respondent's application for asylum, it will not address the merits of her claims for withholding of removal under the Act or protection under the Convention Against Torture. *See* 8 C.F.R. § 1208.16; *see also INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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.").

Accordingly, the following are the orders of the Court:

ORDERS

IT IS HEREBY ORDERED that Respondents' application for **ASYLUM** is **GRANTED**; and therefore, Lead Respondent, [REDACTED] (A 20 [REDACTED] 98) is **GRANTED ASYLUM** and Rider Respondent, [REDACTED] (A 20 [REDACTED] 99) is **GRANTED ASYLUM** as a derivative.

IT IS FURTHER ORDERED that Respondents' applications for **WITHHOLDING OF REMOVAL** pursuant to section 241(b)(3) of the Act are **DENIED AS MOOT**.

IT IS FURTHER ORDERED that Respondents' applications for **PROTECTION UNDER THE CONVENTION AGAINST TORTURE** are **DENIED AS MOOT**.

RIGHT TO APPEAL

The parties are advised that they have a right to appeal this decision to the Board of Immigration Appeals. Any appeal must be received by the Board of Immigration Appeals within thirty days of the date of this order. Failure to comply with the deadline will result in a waiver of the party's right to appeal and the present order will become administratively final. *See* 8 C.F.R. § 1003.38.

Digitally signed

by [REDACTED]

Date: 2022.05.02

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[REDACTED]
U.S. Immigration Judge

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: ☐ RESPONDENT ☐ RESPONDENT c/o Custodial Officer ☐ RESPONDENT'S
ATTY/REP ☐ DHS
DATE: _____ BY: COURT STAFF _____
Attachments: ☐ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other
