

## INTRODUCTION

The U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (Department), requests that the Board of Immigration Appeals (Board) affirm the decision of the Immigration Judge and order the respondent removed to Ecuador. On May 6, 2019, the Immigration Judge issued a written decision denying the respondent's applications for protection relief. The respondent has appealed this decision.

## ARGUMENT

The Immigration Judge's factual findings are not clearly erroneous, and the Board cannot be "left with the definite and firm conviction that a mistake has been committed" when reviewing the factual findings made by the Immigration Judge. *Matter of R-S-H*-, 23 I&N Dec. 629, 637 (BIA 2003). The Immigration Judge drew straight from the record and testimony in making her factual findings.

The Immigration Judge correctly denied the respondent's applications for protection related relief. The respondent asks the Board to remand the case to the Immigration Judge because the Immigration Judge "denied Respondent's claims in direct reliance on now vacated [*Matter of A-B*-]...." Respondent's Brief at 4. Yet the respondent blithely ignores that the Immigration Judge's decision was not based on the particular social group requirements set out in *Matter of A-B*-, instead, the Immigration Judge denied based on nexus. The Immigration Judge stated clearly: "regardless of the validity of the social groups Respondent has offered, she was not harmed on account of her membership therein" and "there is no nexus between the harm [the abuser] inflicted and a protected ground." I.J. Decision at 11. The nexus requirement in an asylum case still exists after the recission of *Matter of A-B*-, and indeed, the majority of the Immigration Judge's citations on the issue are to other Board and circuit court decisions issued

separate from that decision. *See* I.J. Decision at 10-11. Thus, the respondent's arguments on this issue are unfounded.

The Immigration Judge properly denied any requests for a continuance. The respondent requested to present *three* "expert" witnesses in support of her claim. The Immigration Judge properly denied extending the respondent's hearing to additional days as they simply have no value added. The Immigration Judge denied the respondent's claim based on legal issues—i.e., nexus, instead of factual issues that the supposed experts would testify regarding.<sup>1</sup>

The respondent has raised a myriad of other issues as well that should be dismissed. She claims she should be granted asylum based on a "well founded fear" of future persecution, however, as the Immigration Judge explained, her claim fails on the nexus requirement as well. There is nothing "clearly erroneous" about the Immigration Judge's findings that the respondent would not be subjected to the same harm she was years after the initial abuse. *See* I.J. Decision at 12-13. The respondent claims she should be granted humanitarian asylum, yet that requires a finding of "past persecution"—something the Immigration Judge thoroughly denied. *Matter of L-S-*, 25 I&N Dec. 705 (BIA 2012); I.J. Decision at 9-11. The respondent claims the Immigration Judge erred in denying CAT relief, yet she provides no explanation of how her claim is separate or independent from her unsuccessful claim for asylum, as required by law. *Guled v. Mukasey*, 515 F.3d 872, 882 (8th Cir. 2008).

In sum, the respondent's throwing the kitchen sink approach fails on a number of levels. The respondent's claims fail as a matter of law and the Board should dismiss her appeal.

Respectfully submitted on September 22, 2021,

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<sup>1</sup> In addition, the respondent has not provided any persuasive reasons for why the purported experts should testify when all submitted reports and statements. *See* I.J. Decision at 6.