



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 2150
Falls Church, Virginia 22041

November 1, 2019

Bryan S. Johnson, Esq.



Re: FOIA 2019-51125

Dear Mr. Atty. Johnson,

This letter is in response to your Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) in which you seek certain communications involving Immigration Judges Couch, Wilson, and Cassidy.

Responsive documents are enclosed. Some information is withheld pursuant to 5 U. S.C. § 552(b)(6) to avoid a clearly unwarranted invasion of personal privacy, and/or 5 U. S.C. § 552(b)(5) to protect privileged information, including deliberative process privilege, attorney-client privilege, and the attorney work product doctrine. There will be no charge for this information.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. *See* <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

You may contact our FOIA Public Liaison at the telephone number 703-605-1297 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Sixth Floor, 441 G Street NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Joseph Schaaf

Joseph R. Schaaf
Senior Counsel for Administrative Law

From: [Moutinho, Deborah \(EOIR\)](#)
To: [McHenry, James \(EOIR\)](#)
Subject: Re: Follow up Board Member Interview
Date: Thursday, November 29, 2018 4:53:36 PM

Thank you Sir

Deborah

Sent from my iPhone

On Nov 29, 2018, at 4:52 PM, McHenry, James (EOIR)
<James.McHenry@EOIR.USDOJ.GOV> wrote:

There will be more slots. I gave the list of interviewees and slots to Vicki, and she can give them to you tomorrow. Thanks.

From: Moutinho, Deborah (EOIR)
Sent: Thursday, November 29, 2018 4:45 PM
To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Subject: Fwd: Follow up Board Member Interview

Hello Sir

I wanted to verify with you before I respond to Judge Couch that only Monday times are available (I have given all the Dec 7th time slots) that there are no additional slots available on Friday Dec 7th because if he comes on Monday Dec 10th he will need to reschedule his master calendar on Monday

Thank you
Deborah

Sent from my iPhone

Begin forwarded message:

From: "Couch, V. Stuart (EOIR)" <V.Stuart.Couch@EOIR.USDOJ.GOV>
Date: November 29, 2018 at 4:12:42 PM EST
To: "Moutinho, Deborah (EOIR)" <Deborah.Moutinho@EOIR.USDOJ.GOV>
Subject: RE: Follow up Board Member Interview

Thanks, Deborah. Is there any chance I can squeeze in on Friday?
Otherwise I'll have a train wreck on Monday – those 35 cases have already been rescheduled once.

VSC

From: Moutinho, Deborah (EOIR)
Sent: Thursday, November 29, 2018 4:11 PM
To: Couch, V. Stuart (EOIR) <V.Stuart.Couch@EOIR.USDOJ.GOV>
Subject: RE: Follow up Board Member Interview

Hello Sir

All follow up interviews with the DAG panel are conducted in person, the time slots on Friday Dec 7th are no longer available however I do still have time slots available on Monday Dec 10th.

Thank you
Deborah

From: Couch, V. Stuart (EOIR)
Sent: Thursday, November 29, 2018 4:01 PM
To: Moutinho, Deborah (EOIR) <Deborah.Moutinho@EOIR.USDOJ.GOV>
Subject: RE: Follow up Board Member Interview

Ms. Moutinho,

Good afternoon and my apologies for missing your phone call -- I'm still in the courtroom wrapping up some paperwork.

From your email I presume this interview will be conducted in person, however I'm able to do it by video teleconference if that is acceptable. Otherwise I will reschedule my cases for next Friday, December 7th and travel the night before. I have a large master calendar hearing on Monday, December 10th with 35 cases, so I would prefer not to reschedule them.

I can be reached at my courtroom telephone at 704-817-6149 if you need to contact me right now.

Many thanks for your assistance.

Best regards,

V. Stuart Couch
U.S. Immigration Judge
Charlotte, NC
(b) (6)
stuart.couch@usdoj.gov

From: Moutinho, Deborah (EOIR)
Sent: Thursday, November 29, 2018 3:38 PM
To: Couch, V. Stuart (EOIR) <V.Stuart.Couch@EOIR.USDOJ.GOV>
Subject: Follow up Board Member Interview

Good Afternoon Sir

I wanted to follow up on a telephone message I left earlier today concerning your availability to travel to Washington DC for a follow up Board Member Interview at Main Justice. I have available times on Friday, December 7th and then again on Monday, December 10th, please contact me regarding your availability on those 2 days.

I am currently scheduling additional applicants so please refrain from making any travel reservations until I have confirmed your preference is still available.

Deborah Moutinho
Staff Assistant
Office of the Director

(b) (6)

From: [McHenry, James \(EOIR\)](#)
To: [Alder Reid, Lauren \(EOIR\)](#)
Cc: [Owen, Sirce E. \(EOIR\)](#)
Subject: RE: Board member draft notice
Date: Wednesday, August 21, 2019 6:21:00 PM
Attachments: [NewBoardMemberInvestiture_Draft 3.doc](#)

Use this version, as there was a typo in the prior one. Thanks.

From: McHenry, James (EOIR)
Sent: Wednesday, August 21, 2019 6:04 PM
To: Alder Reid, Lauren (EOIR) <Lauren.AlderReid@EOIR.USDOJ.GOV>
Cc: Owen, Sirce E. (EOIR) <Sirce.Owen@EOIR.USDOJ.GOV>
Subject: RE: Board member draft notice

Also minor edits in the attached.

From: Alder Reid, Lauren (EOIR) <Lauren.AlderReid@EOIR.USDOJ.GOV>
Sent: Wednesday, August 21, 2019 3:23 PM
To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Cc: Owen, Sirce E. (EOIR) <Sirce.Owen@EOIR.USDOJ.GOV>
Subject: Board member draft notice

James –

Attached is the draft Notice announcing the appointment of the new Board members. Depending on timing, we may want to call them appellate immigration judges, but I leave that up to you.

Best,

Lauren Alder Reid

Assistant Director
Office of Policy
Executive Office for Immigration Review
U.S. Department of Justice

(b) (6)

Lauren.Alder.Reid@usdoj.gov

From: [McHenry, James \(EOIR\)](#)
To: [Alder Reid, Lauren \(EOIR\)](#)
Subject: RE: New Members of the Board of Immigration Appeals
Date: Friday, August 23, 2019 12:58:00 PM

Corrected it in the release but not here. Thanks.

Also, you can go ahead and send it out once you make the correction.

From: Alder Reid, Lauren (EOIR) <Lauren.AlderReid@EOIR.USDOJ.GOV>
Sent: Friday, August 23, 2019 11:43 AM
To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Subject: RE: New Members of the Board of Immigration Appeals

Will do...after I change "Lunch" to "Lynch."

From: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Sent: Friday, August 23, 2019 8:20 AM
To: Alder Reid, Lauren (EOIR) <Lauren.AlderReid@EOIR.USDOJ.GOV>
Subject: New Members of the Board of Immigration Appeals

Would you send this out around 2:45 PM today?
Thanks.

I am pleased to announce that Attorney General Barr has appointed the following six individuals as permanent members of the Board of Immigration Appeals:

William A. Cassidy, Board Member

Mr. Cassidy comes to the Board after serving as an immigration judge since 1993, when he was initially appointed by former Attorney General Janet Reno. He received a Bachelor of Science in 1975 from Kenyon College and a Juris Doctorate in 1980 from John Marshall/Cleveland State University. From October 1993 to November 1996, Mr. Cassidy served as an immigration judge in New York, and from November 1996 to August 2019, he served as an immigration judge in Atlanta. From 1992 to 1993, he was in private practice with Squire, Sanders & Dempsey, in Cleveland. From 1987 to 1992, he served as both general attorney and as director of training at the former Immigration and Naturalization Service. From 1986 to 1987, and previously from 1981 to 1984, he served as an assistant county prosecutor for the Civil/Criminal Division with Cuyahoga County, Ohio. From 1984 to 1986, he served as law director/prosecutor with the City of North Ridgeville, Ohio. Mr. Cassidy is a member of the Ohio Bar.

V. Stuart Couch, Board Member

Mr. Couch comes to the Board after serving as an immigration judge since 2010, when he was

initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in political science in 1987 from Duke University, a Juris Doctor in 1996 from Campbell University, and a Master of Laws in litigation and dispute resolution in 2008 from The George Washington University. From October 2010 to August 2019, Mr. Couch served as an immigration judge in Charlotte, North Carolina. From 2009 to October 2010, he was in private practice in Charlotte, North Carolina. From 2006 to 2009, Mr. Couch served as a senior appellate judge on the U.S. Navy-Marine Corps Court of Criminal Appeals in the District of Columbia. From 2003 to 2006, he was assigned to the Department of Defense, Office of Military Commissions as a senior prosecutor for select detainees held at Guantánamo Bay, Cuba. From 2001 to 2003, he served as the chief trial counsel and military justice officer for Camp Lejeune, North Carolina. From 1999 to 2001, Mr. Couch was in private practice and served as an assistant district attorney in Beaufort and New Bern, North Carolina. From 1996 to 1999, he served as the chief trial counsel and a special assistant U.S. attorney at Marine Corps Air Station, Cherry Point, North Carolina. Before attending law school, Mr. Couch served as a KC-130 pilot with Marine Aerial Refueler Transport Squadron 252 (VMGR-252) at Marine Corps Air Station Cherry Point from 1989 to 1993. Mr. Couch is a member of the North Carolina State Bar.

Deborah K. Goodwin, Board Member

Ms. Goodwin comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lynch. She earned a Bachelor of Arts in 1986 from Wilson College and a Juris Doctor in 2000 from the State University of New York at Buffalo School of Law. From February 2017 to August 2019, Ms. Goodwin served as an immigration judge in Miami. From 2015 to January 2017, she served as an associate legal advisor for the District Court Litigation Division, Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), in the District of Columbia. From 2007 through 2015, she served as an associate counsel for U.S. Citizenship and Immigration Services, DHS, in San Francisco. From 2002 through 2007, she served as an assistant chief counsel for ICE, DHS, and former Immigration and Naturalization Service, in San Francisco. Ms. Goodwin is a member of the Florida Bar.

Stephanie E. Gorman, Board Member

Ms. Gorman comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta **Lynch**. She earned a Bachelor of Science in 1996 from California State University Sacramento, a Juris Doctor in 2002 from the Thomas Jefferson School of Law, and a Master of Laws in 2005 from the University of San Diego School of Law. From February 2017 to August 2019, Ms. Gorman served as an immigration judge in Houston. From 2014 to January 2017, she served as an attorney and legal instructor at the Federal Law Enforcement Training Center in Glynco, Georgia, for the Office of the Chief Counsel, Customs and Border Protection, Department of Homeland Security (DHS). From 2008 through 2014, she served as an assistant chief counsel for the Office of the Principal Legal Advisor, Immigration and Customs Enforcement, DHS. From 2009 through 2012, she also served as a special assistant U.S. attorney for the U.S. Attorney's Office, Middle District of Florida, Department of Justice (DOJ), in Orlando, Florida. From 2007 through 2008, she served as a judicial law clerk for the Honorable M. James Lorenz, U.S. District Court for the Southern District of California, in San Diego. From March 2007 to September 2007, she served as a judicial law clerk for the Honorable Roger T. Benitez, U.S. District Court for the

Southern District of California, in San Diego. From 2006 through 2007, she served as an assistant state attorney for the 12th Judicial Circuit, in Sarasota, Fla. From 2003 through 2006, she served in various capacities on the faculty of the Thomas Jefferson School of Law, including as visiting assistant professor of law and senior legal writing instructor and adjunct professor. From 2002 through 2004, she served as an associate attorney for the Law Office of Matthew P. Rocco, in Carlsbad, California. Ms. Gorman is a member of the State Bar of California and the Florida Bar.

Keith E. Hunsucker, Board Member

Mr. Hunsucker comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in 1984 from the University of Akron and a Juris Doctorate in 1987 from the University of Akron School of Law. From August 2010 to September 2017, Mr. Hunsucker served as an immigration judge in Port Isabel, Texas. From September 2017 to August 2019, Mr. Hunsucker served as an immigration judge in Cleveland. From 2000 to August 2010, he worked as a senior instructor for the Federal Law Enforcement Training Center, Legal Division, Department of Homeland Security, in Glynco, Georgia. From 1992 to 2000, he worked as an attorney for the former Immigration and Naturalization Service (INS), in Atlanta. From 1989 to 1992, he was an attorney for the former INS in Harlingen, Texas. From April 1989 to September 1989, Mr. Hunsucker was a law clerk for the Ohio Court of Appeals, 9th Judicial District. From 1988 to 1989, he was in private practice. From 1987 to 1988, Mr. Hunsucker worked as an INS attorney in the Attorney General's Honors Program, in San Francisco. Mr. Hunsucker is a member of the Ohio State and District of Columbia Bars.

Earle B. Wilson, Board Member

Mr. Wilson comes to the Board after serving as an immigration judge since 2005, when he was initially appointed by former Attorney General Alberto Gonzales. He received a Bachelor of Science in 1979 from Atlantic Union College and a Juris Doctorate in 1989 from Howard University School of Law. From October 2005 to July 2007, Mr. Wilson served as an immigration judge in Miami; from July 2007 to April 2010, he served as an immigration judge in Orlando, Florida; and from April 2010 to August 2019, he served as an immigration judge in Atlanta. From 1998 to 2004, he served as a senior litigation counsel and trial attorney with the Office of Immigration Litigation, Department of Justice, in the District of Columbia. From 1996 to 1998, he served as an assistant U.S. attorney with the U.S. Attorney's Office in Maryland. From 1992 to 1996, he served as senior counsel at the Securities and Exchange Commission in the District of Columbia. From 1990 to 1992, he was an associate attorney with the law firm of Honigman, Miller, Schwartz and Cohn, in Detroit. From 1989 to 1990, he served as law clerk to the Honorable Joseph W. Hatchett of the U.S. Court of Appeals for the 11th Circuit in Tallahassee, Florida. Mr. Wilson is a member of the Maryland State Bar.

Please join me in congratulating our new Board members!

James McHenry
Director

From: [Cassidy, William A. \(EOIR\)](#)
To: [McHenry, James \(EOIR\)](#)
Subject: Merry Christmas to you and your family!
Date: Friday, December 21, 2018 7:23:52 AM

From: [McHenry, James \(EOIR\)](#)
To: [Wilson, Earle B. \(EOIR\)](#); [Butler, Vicki A. \(EOIR\)](#)
Subject: Meeting
Date: Friday, August 23, 2019 12:57:00 PM

I had a call pop up at 1, so I need to move the meeting with Judge Wilson to roughly 1:20 or 1:30.
Thanks.

From: [Cassidy, William A. \(EOIR\)](#)
To: [McHenry, James \(EOIR\)](#)
Subject: Have a Happy Easter
Date: Wednesday, April 17, 2019 12:28:15 PM

From: [Couch, V. Stuart \(EOIR\)](#)
To: [McHenry, James \(EOIR\)](#)
Subject: FYI
Date: Thursday, December 13, 2018 12:32:23 PM

[https://\(b\) \(7\)\(E\)](#)

2019 WL 542996

Only the Westlaw citation is currently available.
United States Court of Appeals, Fourth Circuit.

Eduardo Antonio RODRIGUEZ-ARIAS, Petitioner,

v.

Matthew G. WHITAKER, Acting
Attorney General, Respondent.

No. 17-2211

|
Argued: October 30, 2018

|
Decided: February 12, 2019

Synopsis

Background: Native of El Salvador filed petition for review of Board of Immigration Appeals (BIA) order affirming immigration judge's (IJ) denial of his claim for protection under Convention Against Torture (CAT).

Holdings: The Court of Appeals, [Floyd](#), Circuit Judge, held that:

[1] BIA and IJ improperly failed to aggregate risk of torture that applicant faced, and

[2] BIA and IJ abused their discretion by failing to meaningfully engage with live testimony and documentary evidence that applicant originally produced and failing to meaningfully consider additional evidence.

Petition granted.

West Headnotes (13)

[1] Aliens, Immigration, and Citizenship

🔑 Standard for relief

Alien seeking relief under Convention Against Torture (CAT) has burden to show that it is more likely than not that he or she would be tortured in country of removal. [8 C.F.R. § 1208.16\(c\)\(2\)](#).

[Cases that cite this headnote](#)

[2] Aliens, Immigration, and Citizenship

🔑 Government action or acquiescence

Public officials breach their responsibility under Convention Against Torture (CAT) to intervene when they engage in willful blindness or turn blind eye to torture. [8 C.F.R. § 1208.18\(a\)\(7\)](#).

[Cases that cite this headnote](#)

[3] Aliens, Immigration, and Citizenship

🔑 Government action or acquiescence

When determining whether public officials in country of removal acquiesce to torture, in violation of Convention Against Torture (CAT), immigration judges should consider evidence of past torture, evidence of gross, flagrant, or mass violations of human rights, country's conditions, and whether applicant for CAT relief could relocate to part of country where he or she is unlikely to be tortured. [8 C.F.R. §§ 1208.16\(c\)\(3\), 1208.18\(a\)\(7\)](#).

[Cases that cite this headnote](#)

[4] Aliens, Immigration, and Citizenship

🔑 Substantial evidence in general

In reviewing denial of claim under Convention Against Torture (CAT), Court of Appeals reviews Board of Immigration Appeals' (BIA) findings of fact for substantial evidence. [8 C.F.R. § 1208.16\(c\)\(2\)](#).

[Cases that cite this headnote](#)

[5] Aliens, Immigration, and Citizenship

🔑 Law questions

Board of Immigration Appeals' (BIA) legal determinations are reviewed de novo.

[Cases that cite this headnote](#)

[6] Administrative Law and Procedure



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

**Crawley, Margery Chantal
Robertson Law Office, PLLC
500 N. Washington St
Alexandria, VA 22314**

**DHS/ICE Office of Chief Counsel - CHL
5701 Executive Ctr Dr., Ste 300
Charlotte, NC 28212**

Name: (b) (6)

Date of this notice: 12/10/2018

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Greer, Anne J.
Cole, Patricia A.
Wendtland, Linda S.

User team: (b) (6)

MSD



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

**MALDONADO-BOQUIN, WILMER ELIAN
C/O LICINDA NCGARON
223 SPINEL LANE
KNIGHTDALE, NC 27545**

**DHS/ICE Office of Chief Counsel - CHL
5701 Executive Ctr Dr., Ste 300
Charlotte, NC 28212**

Name: (b) (6) ...
Riders: (b) (6)

(b) (6)

Date of this notice: 12/10/2018

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Greer, Anne J.
Cole, Patricia A.
Wendtland, Linda S.

3/26/19
User team: 07/19

Falls Church, Virginia 22041

Files: (b) (6) – Charlotte, NC

Date: **DEC 10 2018**

(b) (6)

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Margery C. Crawley, Esquire

ON BEHALF OF DHS: Susan Lecker
Assistant Chief Counsel

APPLICATION: Remand; continuance

In a decision dated July 25, 2017, the Immigration Judge denied the respondents' motion to continue proceedings and ordered them removed from the United States. The respondents, natives and citizens of Honduras, have appealed from this decision. The Department of Homeland Security ("DHS") opposes the appeal. The appeal will be sustained, the Immigration Judge's removal order will be vacated, and the record will be remanded for further proceedings.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i) (2018). We review all other issues, including issues of law, discretion, or judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal, the minor respondents, who are brothers, challenge the Immigration Judge's determination that they waived their right to file applications for asylum (Respondents' Br. at 12-15).¹ The Immigration Court made this determination after finding that the respondents had not filed their asylum applications by June 26, 2017, which the Immigration Judge stated was the deadline set for filing these applications (IJ at 1; Tr. at 31). Under the regulations, Immigration Judges may set time limits for the filing of applications for relief from removal and deem waived applications that are not filed within the time set. See 8 C.F.R. § 1003.31(c). However, we cannot affirm the Immigration Judge's finding that the

¹ The respondents also argue that the Immigration Judge erred when he denied their request for a continuance to await adjudication of their Petitions for Amerasian, Widow(er), or Special Immigrant (Forms I-360), which are currently pending before the U.S. Citizenship and Immigration Services ("USCIS") (Respondents' Br. at 5-12). However, based on our disposition in this case, we need not reach this argument at this time.

respondents waived their right to file for asylum because the record indicates that the Immigration Judge did not provide the respondents with sufficient notice that he had set a deadline for them to file independent applications for this form of relief.

After the respondents' counsel stated, at a master calendar hearing on March 8, 2017, that the respondents would be seeking a petition for Special Immigrant Juvenile status, and alternatively asylum, the Immigration Judge improperly found that the respondents had "already had their opportunity, to file applications for relief, though their mother"² and set June 26, 2017, as "the deadline . . . [f]or [him] to see, what efforts are being taken to pursue special immigrant juvenile status" (Tr. at 21). Because the Immigration Judge did not indicate that this was the deadline for the respondents to file for asylum, and his conclusion that they are ineligible to file independently for asylum in the first instance was mistaken, the Immigration Judge did not give sufficient notice to the respondents that June 26, 2017, was the date "set . . . for the filing of [their] applications" for asylum. 8 C.F.R. § 1003.31(c). Absent this notice, he could not properly deem their right to file for asylum to be waived pursuant to 8 C.F.R. § 1003.31(c). *See, e.g., Yanez-Popp v. INS*, 998 F.2d 231, 237 (4th Cir. 1993) (providing that notice and an opportunity to present one's case are basic requirements of a full and fair hearing in immigration proceedings).

We will therefore remand the record to permit the respondents to apply for asylum and any other form of relief for which they may be eligible. Contrary to the respondents' assertions, remand to a different Immigration Judge is not warranted because the Immigration Judge below was consistently respectful to the respondents in this case (Respondents' Br. at 15-16). *Cf. Matter of Y-S-L-C-*, 26 I&N Dec. 688, 691 (BIA 2015). Accordingly, the following orders will be entered.

ORDER: The appeal is sustained and the Immigration Judge's July 25, 2017, removal order is vacated.

FURTHER ORDER: The record is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.


FOR THE BOARD

² We recognize that, pursuant to 8 C.F.R. § 1003.31(c), the respondents' mother waived her right to file an application for asylum, to which the respondents would have been *derivatives*, when she declined to file her application by the February 3, 2015, deadline set by another Immigration Judge (Tr. at 9-15). However, in doing so she did not waive her children's right to file *independent* applications for asylum (*contra* DHS Br. at 2). Consequently, we cannot uphold the Immigration Judge's finding that the respondents already had the opportunity to file for relief from removal (*contra* Tr. at 31).

Falls Church, Virginia 22041

File: (b) (6) – Charlotte, NC

Date:

(b) (6)

DEC 10 2018

In re: (b) (6)

DISSENTING OPINION: Patricia A. Cole, Board Member

I respectfully dissent. I would not remand these proceedings but would affirm the Immigration Judge's denial of a continuance for the reasons stated and I agree that the respondents abandoned their applications for withholding of removal. The majority's finding that the Immigration Judge was required to give respondents notice for filing the asylum application is misplaced. As the DHS correctly notes on appeal, the respondents at an earlier master calendar hearing advised the court that they would be seeking asylum as derivatives of their parents. The Immigration Judge set a date for filing the asylum applications, but they were not filed. At the March 8, 2017, hearing, the Immigration Judge noted that respondents had the opportunity to file their applications through their mother and the respondents' attorney acknowledged they had that opportunity. Additionally, the respondents have not established any prima facie or submitted an application for asylum relief. Since the Immigration Judge would also deny the motion for continuance, I would dismiss the appeal.

IMMIGRATION COURT
5701 EXECUTIVE CENTER DR. #400
CHARLOTTE, NC 28212

In the Matter of

Case No.: (b) (6)

(b) (6)

Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 7/25/17.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

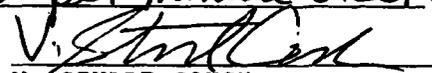
- The respondent was ordered removed from the United States to
HONDURAS ~~or in the alternative to.~~
- Respondent's application for voluntary departure was denied and
respondent was ordered removed to HONDURAS or in the
alternative to .
- Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to HONDURAS.

Respondent's application for:

- Asylum was () granted () denied () withdrawn.
- Withholding of removal was () granted () denied () withdrawn.
- A Waiver under Section _____ was () granted () denied () withdrawn.
- Cancellation of removal under section 240A(a) was () granted () denied
() withdrawn.

Respondent's application for:

- Cancellation under section 240A(b)(1) was () granted () denied
() withdrawn. If granted, it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- Cancellation under section 240A(b)(2) was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- Adjustment of Status under Section _____ was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- Respondent's application of () withholding of removal () deferral of
removal under Article III of the Convention Against Torture was
() granted () denied () withdrawn.
- Respondent's status was rescinded under section 246.
- Respondent is admitted to the United States as a _____ until _____.
- As a condition of admission, respondent is to post a \$ _____ bond.
- Respondent knowingly filed a frivolous asylum application after proper
notice.
- Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- Proceedings were terminated.
- Other: motion to continue DENIED per minute order.
Date: Jul 25, 2017


V. STUART COUCH
Immigration Judge

Appeal: Waived/Reserved ^R Appeal Due By:

8/24/17

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
CHARLOTTE, NORTH CAROLINA

IN THE MATTER OF

(b) (6)
[REDACTED]
[REDACTED]
[REDACTED],

Respondents.

) IN REMOVAL PROCEEDINGS

) File No: (b) (6)

) MINUTE ORDER

) July 25, 2017

COMES NOW the Court and renders its decision on Respondents' motion for a continuance to await adjudication of their Special Immigration Juvenile Status (SIJS) applications (hereinafter "Form I-360") pending with the United States Citizenship and Immigration Services ("USCIS"). The Department of Homeland Security ("DHS") opposes the motion. After review of the record of proceedings, the Court denies Respondents' motion to continue for the reasons set forth below.

The Court finds that Respondents are removable to the designated country of Honduras as charged in the Notice to Appear issued on May 29, 2014. Exhibit 1. Respondents, through counsel, waived filing other applications for relief on or about June 26, 2017. *See* 8 C.F.R. § 1003.31(c); *Matter of Interiano-Rosa*, 25 I&N Dec. 264, 266 (BIA 2010) (citing INA § 240(c)(4)(A), 8 C.F.R. § 1240.8(d)).

The DHS opposes Respondent's motion for further continuances in this case because a current visa priority date is not available for Respondents to immediately adjust status to that of a lawful permanent resident, who may still pursue their Form I-360 applications even though a final removal order is issued by the Court.

Motion to Continue

An alien does not have a legal entitlement to discretionary relief. *Obioha v. Gonzales*, 431 F.3d 400, 409 (4th Cir. 2005). No property or liberty interest can exist when the relief sought is discretionary. *Dekoladenu v. Gonzales*, 459 F.3d 500, 508 (4th Cir.

2006), *overruled on other grounds by Dada v. Mukasey*, 554 U.S. 1, 128 S.Ct. 2307, 171 L.Ed.2d 178 (2008).

The decision to grant or deny a continuance is within the Court's broad discretion and good cause must be shown for a continuance. *Matter of Sanchez Sosa*, 25 I&N Dec. 807, 812 (BIA 2012); *Matter of Hashmi*, 24 I&N Dec. 785, 788 (BIA 2009); *Matter of Sibrun*, 18 I&N Dec. 354, 355-58 (BIA 1983); 8 C.F.R. §§ 1003.29, 1240.6. "Adjudication of a motion to continue should begin with the presumption . . . that discretion should be favorably exercised where a prima facie approvable visa petition and adjustment application have been submitted in the course of an ongoing removal hearing." *Matter of Hashmi*, 24 I&N Dec. at 790 (citing *Matter of Garcia*, 16 I&N Dec. 653, 657 (BIA 1978)).

The Court finds that the respondents have failed to demonstrate good cause for a further continuance of these proceedings. *Matter of Sanchez Sosa*, 25 I&N Dec. at 815. Even if the Court presumes the respondents' pending Form I-360 applications will be approved by the USCIS in the future, they would not confer lawful immigration status upon the respondents until a current priority date is available to seek adjustment as a lawful permanent resident. INA §§ 203(b)(4); 245(a), (h). The Court therefore finds that the future prospect of the respondent's eligibility to adjust status is unclear. *Matter of Hashmi*, 24 I&N Dec. at 792. The time required for a current priority date with an available visa for the respondents to adjust their status appears to be indeterminate, thus the Court is unable to evaluate the likelihood of success of their efforts to obtain lawful status at present. *Matter of Sanchez Sosa*, 25 I&N Dec. at 813 (citing *Matter of Rajah*, 25 I&N Dec. 127, 130 (BIA 2009); 8 C.F.R. § 1240.6). An unreasonable delay of these proceedings may "thwart the operation of statutes providing for removal" by allowing the respondents to remain indefinitely in the United States without legal status. *Matter of W-Y-U-*, 27 I&N Dec. 17, 20 (BIA 2017) (citing *Ukpabi v. Mukasey*, 525 F.3d 403, 408 (6th Cir. 2008)).

Under the circumstances presented in this case, the Court finds any further continuances are not warranted. *Matter of Sanchez-Sosa*, 25 I&N Dec. at 815 (continuances are not appropriate as a dilatory tactic to forestall the conclusion of removal proceedings). The Court therefore finds that the respondents have not shown good cause for a continuance. 8 C.F.R. § 1003.29; *Matter of Hashmi*, 24 I&N Dec. at 790.

Accordingly, the Court enters the following:

ORDERS

IT IS HEREBY ORDERED that Respondents' opportunity to file applications for relief has been WAIVED and thereby ABANDONED.

IT IS FURTHER ORDERED that Respondents' motion to continue these proceedings is DENIED.

7/25/2017

Date



V. STUART COUCH
United States Immigration Judge
Charlotte, North Carolina

From: [McHenry, James \(EOIR\)](#)
To: [Butler, Vicki A. \(EOIR\)](#)
Subject: BMs
Date: Tuesday, July 9, 2019 12:05:00 PM
Attachments: [Memo from JRMcH to AG re BM V Stuart Couch2.docx](#)
[Memo from JRMcH to AG re BM William Cassidy2.docx](#)

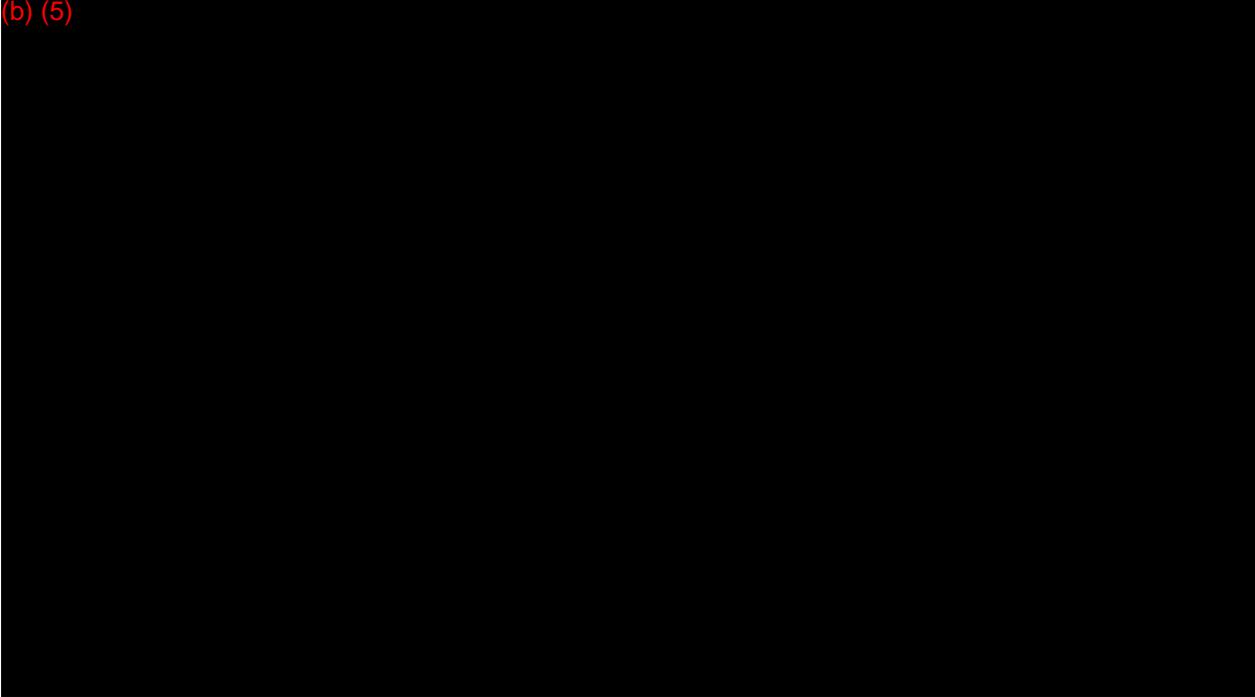
Please format the attached for my signature today.
Thanks.

From: [Couch, V. Stuart \(EOIR\)](#)
To: [McHenry, James \(EOIR\)](#)
Subject: CAT
Date: Thursday, February 21, 2019 5:08:57 PM
Attachments: (b) (6) - CAT relief.pdf

THIS EMAIL CONTAINS INFORMATION COVERED BY THE DELIBERATIVE PROCESS PRIVILEGE AND IS NOT SUBJECT TO FOIA DISCLOSURE

James,

(b) (5)



Thanks,

Stu

🔑 Aliens, immigration, and citizenship

Aliens, Immigration, and Citizenship

🔑 Law questions

Although Board of Immigration Appeals (BIA) may be granted *Chevron* deference when it decides matters of statutory interpretation, such deference is not granted where BIA issued nonprecedential opinion authored by single member.

[Cases that cite this headnote](#)

[7] **Aliens, Immigration, and Citizenship**

🔑 Review of discretion

Court of Appeals may overturn Board of Immigration Appeals' (BIA) determinations if it concludes that BIA abused its discretion by failing to offer reasoned explanation for its decision, or distorting or disregarding important aspects of applicant's claim.

[Cases that cite this headnote](#)

[8] **Aliens, Immigration, and Citizenship**

🔑 Review of initial decision or administrative review

Where Board of Immigration Appeals (BIA) adopted and supplemented immigration judge's (IJ) decision, Court of Appeals is obliged to review both rulings.

[Cases that cite this headnote](#)

[9] **Aliens, Immigration, and Citizenship**

🔑 Standard for relief

Risks of torture from all sources should be combined when determining whether applicant for relief under Convention Against Torture (CAT) is more likely than not to be tortured in particular country. 8 C.F.R. § 1208.16(c)(3).

[Cases that cite this headnote](#)

[10] **Aliens, Immigration, and Citizenship**

🔑 Findings or statement of reasons

Aliens, Immigration, and Citizenship

🔑 Remand

Board of Immigration Appeals (BIA) and immigration judge (IJ) considering El Salvador citizen's application for relief under Convention Against Torture (CAT) improperly failed to aggregate risk of torture that he faced in El Salvador from gangs, police, and vigilante groups as result of his gang-related tattoos, thus requiring remand for reconsideration, where IJ addressed only risks that applicant faced from gangs and police, BIA devoted no space in its final order to aggregating risk, but merely found that applicant "has not shown that his hypothetical chain of events is more likely than not to happen." 8 C.F.R. § 1208.16(c)(3).

[Cases that cite this headnote](#)

[11] **Aliens, Immigration, and Citizenship**

🔑 Remand

Board of Immigration Appeals (BIA) and immigration judge (IJ) abused their discretion in evaluating El Salvador citizen's application for relief under Convention Against Torture (CAT), thus warranting remand for reconsideration, by failing to meaningfully engage with live testimony and documentary evidence that applicant originally produced in support of his claim, and failing to meaningfully consider additional evidence that he submitted on remand about risk of torture that he faced in El Salvador.

[Cases that cite this headnote](#)

[12] **Aliens, Immigration, and Citizenship**

🔑 Review of discretion

It is abuse of discretion for Board of Immigration Appeals (BIA) or immigration judge (IJ) to arbitrarily ignore relevant evidence in ruling on application for relief under Convention Against Torture (CAT).

[Cases that cite this headnote](#)

[13] **Aliens, Immigration, and Citizenship**

🔑 [Effect of irregularities;harmless or prejudicial error](#)

Wholesale failure by immigration judge (IJ) and Board of Immigration Appeals (BIA) to consider evidence of country conditions in ruling on application for relief under Convention Against Torture (CAT) constitutes reversible error.

[Cases that cite this headnote](#)

On Petition for Review of an Order of the Board of Immigration Appeals.

Attorneys and Law Firms

ARGUED: [James Feroli](#), CATHOLIC CHARITIES IMMIGRATION LEGAL SERVICES, Washington, D.C., for Petitioner. [Margot Lynne Carter](#), UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent. ON BRIEF: Jennifer Bibby-Gerth, CATHOLIC CHARITIES IMMIGRATION LEGAL SERVICES, Washington, D.C., for Petitioner. [Chad A. Readler](#), Acting Assistant Attorney General, Terri J. Scadron, Assistant Director, Leslie McKay, Senior Litigation Counsel, Office of Immigration Litigation, Civil Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Before [FLOYD](#) and [HARRIS](#), Circuit Judges, and [Donald C. COGGINS](#), United States District Judge for the District of South Carolina, sitting by designation.

Opinion

Petition for review granted; vacated and remanded by published opinion. Judge [Floyd](#) wrote the opinion, in which Judge [Harris](#) and Judge [Coggins](#) joined.

[FLOYD](#), Circuit Judge:

*1 Eduardo Rodriguez-Arias (Rodriguez), a native of El Salvador, petitions for review of the final order of the Board of Immigration Appeals (BIA) affirming the denial of his claim for protection under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). We grant his petition for review of his CAT claim, vacate the BIA’s

order with respect to that claim, and remand for further proceedings consistent with this opinion.

I.

Rodriguez fled El Salvador’s rampant gang-related violence and crime in 2005, when he unlawfully entered the United States as a twelve-year-old. At that time, his grandparents were being extorted by the gangs, he himself had been robbed twice by them, and his teenage cousin had been killed after refusing to join them. The cause of Rodriguez’s flight now forms part of the basis for his claim for relief: Rodriguez fears being returned to El Salvador due to the country’s continued high rate of gang-perpetrated violence. But what’s more, he now also fears violence at the hands of anti-gang vigilante groups and the state police because today he bears the insignia of gang affiliation on his body—gang-related tattoos.

After he arrived in the United States, Rodriguez moved to Maryland and joined Sureños 13, a United States-based gang with no presence in El Salvador. Due to his affiliation with Sureños 13, Rodriguez obtained multiple tattoos that identify him as a gang member. These include the word “Sureños” on his chest, the phrase “Brown Pride” on his stomach, “BPS” and “13” on his left hand, the letter “S” above each of his knees, and “BPS” on his back. A.R. 951–56. Although Rodriguez left Sureños 13 in 2011 or 2012, and has had a face tattoo removed, his other explicitly gang-related tattoos remain.

After he was placed in removal proceedings, Rodriguez sought relief from removal under the CAT.¹ He received an evidentiary hearing before an Immigration Judge (IJ) on May 16, 2016. At the hearing, Rodriguez testified that he fears returning to El Salvador. Because of his tattoos, he expects to be targeted by the violent gangs that plague the country, who will see him as a rival; by anti-gang vigilante groups, who engage in extrajudicial killings of gang members to protect their communities; and by the police, who use extreme violence in their anti-gang efforts. Rodriguez explained in his testimony that in El Salvador, having tattoos is seen as an automatic sign of gang membership and people do not bother investigating whether you are still an active gang member before harming you. Confirming his fears, a friend of his who, like Rodriguez, had once belonged to Sureños 13 was killed within a week after being deported to El Salvador.

Indeed, Rodriguez testified that even after he left Sureños 13, his tattoos have made him a target of violence at the hands of Salvadoran gangs operating in the United States. On one occasion, he was chased by ten to twenty men dressed in blue, the color worn by the notorious Mara Salvatrucha or MS-13 gang. On another occasion he was walking near his home when an MS-13 member struck him with a bat, and on still another occasion someone hit him with a chair when he visited a restaurant frequented by MS-13 members. Rodriguez has also been threatened by rival gangs while in immigration detention. An MS-13 member in detention told Rodriguez that as soon as he arrives in El Salvador, MS-13 will find him and kill him. Two members of the 18th Street gang told him that in El Salvador, 18th Street will look for him and will “have fun with” his body. A.R. 440.

*2 In addition to his own testimony, Rodriguez provided evidence from five expert witnesses about how gang members or suspected gang members routinely experience extreme violence in El Salvador at the hands of other gangs, numerous vigilante groups, and police forces. He also produced the U.S. Department of State 2015 and 2014 Country Reports on El Salvador, the asylum eligibility guidelines for El Salvador from the United Nations High Commissioner for Refugees, and approximately thirty articles from various scholarly and news sources describing the appallingly violent conditions in El Salvador. In all, he provided over 300 pages of documentation.

The IJ denied Rodriguez’s application for relief. She devoted less than one page of her opinion to the CAT claim and limited her risk-of-torture analysis to the risks that Rodriguez faced from gangs and the police. On appeal, the BIA remanded the case so that the IJ could address Rodriguez’s risk of torture from vigilante groups as well. Nowhere in the two-page remand order did the BIA state that the IJ’s original opinion had been vacated or reversed.

On remand, Rodriguez provided additional country-conditions evidence relating to his risk of torture in El Salvador. The IJ then issued a supplemental opinion, which incorporated her first opinion by reference and provided new analysis on only those topics that the BIA had ordered addressed. The IJ again denied CAT relief, this time devoting three pages to the topic. On Rodriguez’s

second appeal, the BIA reviewed the IJ opinions together, adopted both, and supplemented them with additional reasoning. In the BIA’s two pages of CAT analysis, it did not refer specifically to any of the evidence provided by Rodriguez. This petition for review timely followed.

II.

[1] [2] [3] When making a CAT claim, the alien seeking relief has the burden to show that “it is more likely than not that he or she would be tortured” in the country of removal. 8 C.F.R. § 1208.16(c)(2) (2012). Torture is defined as (1) “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” in a manner that is (2) “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” 8 C.F.R. § 1208.18(a)(1) (2012). Public officials acquiesce to torture when, “prior to the activity constituting torture, [they] have awareness of such activity and thereafter breach [their] legal responsibility to intervene to prevent such activity.” 8 C.F.R. § 1208.18(a)(7). Public officials breach their responsibility to intervene when they engage in “willful blindness” or “turn a blind eye to torture.” *Suarez-Valenzuela v. Holder*, 714 F.3d 241, 245 (4th Cir. 2013) (quoting *Ontunez–Tursios v. Ashcroft*, 303 F.3d 341, 355 (5th Cir. 2002)). Public officials need not have actual knowledge of torture to have engaged in willful blindness. *Id.* When determining whether the willful-blindness standard has been met, “immigration judges should consider evidence of past torture, evidence of ‘gross, flagrant or mass violations of human rights,’ the country’s conditions, and whether the applicant could relocate to a part of the country where he or she is unlikely to be tortured.” *Id.* (quoting 8 C.F.R. § 1208.16(c)(3) (2012)).

[4] [5] [6] In reviewing the denial of a CAT claim, we review the agency’s finding of fact for substantial evidence. *See Marynenka v. Holder*, 592 F.3d 594, 600 (4th Cir. 2010). In the immigration context, this standard means that “administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” 8 U.S.C. § 1252(b)(4)(B) (2012); *Suarez-Valenzuela*, 714 F.3d at 245. Legal determinations, however, are reviewed de novo. *Hui Zheng v. Holder*, 562 F.3d 647, 651 (4th Cir. 2009). Although the BIA may be granted *Chevron* deference when it decides matters

of statutory interpretation, such deference is not granted where, as here, the BIA issued a nonprecedential opinion authored by a single member. *Martinez v. Holder*, 740 F.3d 902, 909 (4th Cir. 2014); *Turkson v. Holder*, 667 F.3d 523, 527 (4th Cir.2012); see *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 842–43, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984).

*3 [7] [8] We may also overturn the BIA’s determinations if we conclude that the BIA abused its discretion. *Tassi v. Holder*, 660 F.3d 710, 719 (4th Cir. 2011). “The BIA may be held to have abused its discretion if it failed to offer a reasoned explanation for its decision, or if it distorted or disregarded important aspects of the applicant’s claim.” *Id.* Finally, because the BIA here “adopted and supplemented an IJ decision, we are obliged to review both rulings.” *Id.*

III.

In his petition for review, Rodriguez first argues that the BIA made a legal error when it denied him CAT relief because it failed to aggregate his risk of torture from all three of the entities that he fears: gangs, vigilante groups, and the police. We agree.

The CAT implementing regulations provide that when “assessing whether it is more likely than not that an applicant would be tortured in the proposed country of removal, *all evidence* relevant to the possibility of future torture shall be considered.” 8 C.F.R. § 1208.16(c)(3) (2012) (emphasis added). The Ninth Circuit has read this requirement to mean that “CAT claims must be considered in terms of the aggregate risk of torture from all sources, and not as separate, divisible CAT claims.” *Quijada-Aguilar v. Lynch*, 799 F.3d 1303, 1308 (9th Cir. 2015). The Third Circuit agrees. In a case where the CAT applicant feared torture from two different entities, the Third Circuit explained that “[a] proper application of the regulations ... merely requires [the applicant] to establish that it is more likely than not that he faces torture ... when the two entities are considered together”—in other words, when “the cumulative probability of torture by the two entities exceeds 50%.” *Kamara v. Attorney General*, 420 F.3d 202, 213–14 (3d Cir. 2005) (demonstrating the aggregation analysis by adding a 27% likelihood of torture from one entity to a 28% of torture from another entity for a combined risk of torture of

55%, which merited CAT relief); see also *Matter of G-A-*, 23 I. & N. Dec. 366, 366, 368 (BIA 2002) (en banc) (explaining in a case where the CAT applicant feared that he would be tortured based on several factors, including “his religion, his ethnicity, the duration of his residence in the United States, and his drug-related convictions,” that “the evidence of record, *when considered in the aggregate*, supports the respondent’s contention that he would more likely than not be tortured upon his return to Iran” (emphasis added)). No other U.S. Courts of Appeals have disagreed with this analysis.

[9] We now join our sister circuits and hold that the risks of torture from all sources should be combined when determining whether a CAT applicant is more likely than not to be tortured in a particular country. That interpretation is most consistent with both the implementing regulations and our treaty obligations not to return individuals to a country where they face a substantial risk of torture. See *United States v. Belfast*, 611 F.3d 783, 806–07 (11th Cir. 2010) (explaining that “settled rules of treaty interpretation require that we construe the CAT generously”); see also *Pierre v. Gonzales*, 502 F.3d 109, 114–16 (2d Cir. 2007) (explaining that courts owe deference to the executive branch’s treaty interpretation as expressed through implementing regulations). We therefore confirm that the aggregation analysis described by the Ninth and Third Circuits is required when assessing an applicant’s risk of torture.

*4 [10] While the government concedes that the BIA should have aggregated the risk of torture that Rodriguez faces in El Salvador, it nevertheless argues that there was no error below because both the BIA and IJ did “consider Rodriguez’s claim for relief cumulatively.” Appellee Br. at 26. We disagree. In her first order, the IJ addressed only the risks that Rodriguez faced from gangs and the police, with no mention of vigilante groups. In her second order, the IJ simply stated: “Respondent has failed to demonstrate that it is more likely than not that he would be tortured by vigilante groups[.]” A.R. 124. At no point did she consider the aggregated risk caused by all three entities in unison by adding the probability of torture from each entity and determining whether that sum exceeded 50%.

The BIA, in turn, devoted no space in its final order to aggregating risk. Instead, it asserted the rule that “[a]n alien’s eligibility for [CAT] protection cannot be

established by stringing together a series of suppositions to show that it is more likely than not that torture will result,” unless the evidence “establish[es] that each step in the hypothetical chain of events is more likely than not to happen,” citing a BIA opinion as support. A.R. 007. Then, without citing to or describing any of Rodriguez’s evidence, the BIA simply stated: “[Rodriguez] has not shown that his hypothetical chain of events is more likely than not to happen.” A.R. 008. But Rodriguez never attempted to prove a string of events. Instead, he has consistently asserted that due to his tattoos, he fears torture from three separate entities: police, gangs, and vigilante groups. The proper response to Rodriguez’s fears is to add the amount of risk that each group poses to him and then determine whether that sum is greater than 50%. The BIA failed to do that analysis here, necessitating remand.²

IV.

*5 [11] Rodriguez also argues that the BIA and IJ erred by (1) failing to meaningfully engage with the live testimony and over 300 pages of documentary evidence that he originally produced in support of his claim, and (2) failing to meaningfully consider the additional evidence that he submitted on remand about the risk of torture that he faces in El Salvador. We agree.

[12] [13] It is an abuse of discretion for the BIA or IJ to arbitrarily ignore relevant evidence. *Baharon v. Holder*, 588 F.3d 228, 233 (4th Cir. 2009); *Tassi*, 660 F.3d at 719. “Those who flee persecution and seek refuge under our laws have the right to know that the evidence they present of mistreatment in their home country will be fairly considered and weighed by those who decide their fate.” *Baharon*, 588 F.3d at 233. Therefore, it is this Court’s responsibility to “ensure that unrebutted, legally significant evidence is not arbitrarily ignored by the factfinder.” *Id.* Moreover, the BIA’s or IJ’s failure to engage with an applicant’s evidence hampers our ability to meaningfully review what was decided below. *Zelaya v. Holder*, 668 F.3d 159, 168 (4th Cir. 2012). Hence, a wholesale “failure [by] the IJ and BIA to consider evidence of country conditions constitutes reversible error.” *Aguilar-Ramos v. Holder*, 594 F.3d 701, 705 (9th Cir. 2010); see also *Ai Hua Chen v. Holder*, 742 F.3d 171, 179 (4th Cir. 2014) (explaining that the IJ and BIA must “offer a specific, cogent reason for rejecting evidence”).

The IJ did not meaningfully address the evidence that Rodriguez provided about country conditions in El Salvador, especially the Salvadoran government’s behavior towards gang members and suspected gang members. In her first opinion, she acknowledged that there are “some instances of torture of gang members and former gang members by the police in El Salvador,” but then asserted that the “evidence does not support” the likelihood that the harm inflicted on Rodriguez would be with the government’s acquiescence. A.R. 372. There was no other analysis. In her second opinion, the IJ admitted that “[t]he evidence does indicate that Salvadoran authorities have recently failed to address many instances of vigilante violence.” A.R. 125. But she again found that Rodriguez’s evidence was insufficient, this time because Salvadoran law “prohibits extrajudicial killings and violence” and there have been some efforts by the government to investigate extrajudicial killings. A.R. 125. The IJ did not address Rodriguez’s extensive evidence about the government’s willingness to use torture on suspected gang members or its willingness to turn a blind eye to the extreme violence between rival gangs and between gangs and vigilante groups. This evidence included:

- 1) El Salvador passed a law in November 2013 that protects police officers who kill in the line of duty, which resulted in a spike of extrajudicial killings, A.R. 536;
- 2) Salvadoran police officers routinely drop off suspected gang members in a rival gang’s territory so that they will be tortured or killed by the rival gang, A.R. 536;
- 3) While El Salvador has announced investigations of several extrajudicial killings, the 2015 Country Report stated that these investigations have not resulted in any convictions, A.R. 605;
- 4) In January 2016, there were 738 murders in El Salvador, of which 28.6% were of alleged gang members, despite the fact that less than 2% of Salvadorans are in gangs, A.R. 567.

*6 The IJ’s failure to meaningfully engage with Rodriguez’s evidence was not remedied on appeal. In its review, both originally and after remand, the BIA did not engage with Rodriguez’s evidence at all.

This wholesale failure to fully consider Rodriguez’s country-conditions evidence constitutes reversible error. Denying Rodriguez’s claim for CAT relief required more—much more—from both the BIA and the IJ. On remand, the BIA must interact seriously with the full panoply of the risk-of-torture evidence submitted by Rodriguez, recognizing that “country conditions alone can play a decisive role in granting relief under the [CAT].” *Kamalthas v. I.N.S.*, 251 F.3d 1279, 1280 (9th Cir. 2001); *Aguilar-Ramos v. Holder*, 594 F.3d 701, 705 (9th Cir. 2010) (“[A] CAT applicant may satisfy his burden with evidence of country conditions alone.”). When a man’s life is on the line, he is entitled to know that the court deciding his claim reviewed all his evidence, understood it, and had a cogent, articulable basis for its determination that his

evidence was insufficient. The BIA and IJ both failed to provide such a cogent, articulable basis here.

V.

In conclusion, we grant Rodriguez’s petition for review of his CAT claim, vacate the BIA’s decision with respect to that claim, and remand for further proceedings consistent with this opinion.

PETITION FOR REVIEW GRANTED; VACATED AND REMANDED

All Citations

--- F.3d ----, 2019 WL 542996

Footnotes

- 1 Rodriguez also applied for asylum and for withholding of removal but did not appeal the denial of those forms of relief.
- 2 The BIA also cited two cases to support its determination that Rodriguez’s tattoos would not put him at substantial risk of torture in El Salvador. The Court is not persuaded by these cases for several reasons. First, CAT claims are highly fact specific, which means that one applicant may be able to show a substantial risk of torture in El Salvador due to his tattoos while another may not. *Huang v. Ashcroft*, 390 F.3d 1118, 1123 (9th Cir. 2004). Second, the cases cited by the BIA are readily distinguishable. In *Castillo-Pena v. Holder*, 482 F. App’x 847 (4th Cir. 2012), the Court found that an unrepresented applicant had failed to show that it was more likely than not that he would be tortured by Salvadoran police because of his tattoos. The case did not address the combined risks posed by police, vigilante groups, and gangs in El Salvador. *Id.* at 848. In the second, *Andrade v. Lynch*, 798 F.3d 1242 (9th Cir. 2015), the Ninth Circuit affirmed the BIA’s denial of CAT relief to a Salvadoran applicant who had two discreet non-gang-related tattoos. *Id.* at 1245. However, those tattoos—which were merely his and his girlfriend’s initials—do not pose the same level of risk as the plentiful and conspicuous gang tattoos on Rodriguez. Indeed, the case most similar to the one at bar was not even cited by the BIA and supports Rodriguez’s CAT claim here. In *Cole v. Holder*, 659 F.3d 762 (9th Cir. 2011), a former gang member with conspicuous gang tattoos on his face, calves, arms, and back sought CAT relief because he feared that he would be tortured by the gangs, police forces, and anti-gang death squads in his native Honduras. *Id.* at 765. The Ninth Circuit vacated and remanded the BIA’s denial of CAT relief because it determined that the BIA had failed to aggregate the risk of torture that these three entities posed to an individual with multiple and conspicuous gang tattoos. *Id.* at 775.

From: [McHenry, James \(EOIR\)](#)
To: [Alder Reid, Lauren \(EOIR\)](#)
Cc: [Owen, Sirce E. \(EOIR\)](#)
Subject: RE: Board member draft notice
Date: Wednesday, August 21, 2019 6:03:00 PM
Attachments: [NewBoardMemberInvestiture_Draft 3.doc](#)

Also minor edits in the attached.

From: Alder Reid, Lauren (EOIR) <Lauren.AlderReid@EOIR.USDOJ.GOV>
Sent: Wednesday, August 21, 2019 3:23 PM
To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Cc: Owen, Sirce E. (EOIR) <Sirce.Owen@EOIR.USDOJ.GOV>
Subject: Board member draft notice

James –

Attached is the draft Notice announcing the appointment of the new Board members. Depending on timing, we may want to call them appellate immigration judges, but I leave that up to you.

Best,

Lauren Alder Reid

Assistant Director
Office of Policy
Executive Office for Immigration Review
U.S. Department of Justice
(b) (6)
Lauren.Alder.Reid@usdoj.gov

From: [McHenry, James \(EOIR\)](#)
To: [Ward, Lisa \(EOIR\)](#); [Neal, David L. \(EOIR\)](#)
Cc: [Sheehey, Kate \(EOIR\)](#); [Owen, Sirce E. \(EOIR\)](#)
Subject: RE: BM Candidates
Date: Thursday, July 11, 2019 7:31:00 PM

In light of (b) (6) declination, the following candidate has been recommended for the vacant 21st Board member position:

(b) (6)

Vetting and vouchering should already be completed, but if they are not, they should be completed immediately.

Thanks.

From: McHenry, James (EOIR)
Sent: Monday, July 8, 2019 4:14 PM
To: Ward, Lisa (EOIR) <Lisa.Ward@EOIR.USDOJ.GOV>; Neal, David L. (EOIR) <David.Neal@EOIR.USDOJ.GOV>
Cc: Sheehey, Kate (EOIR) <Kate.Sheehey@EOIR.USDOJ.GOV>; Owen, Sirce E. (EOIR) <Sirce.Owen@EOIR.USDOJ.GOV>
Subject: BM Candidates

The following candidate has been recommended for the vacant 21st Board member position:

(b) (6)

Vetting and vouchering should already be completed, but if they are not, they should be completed immediately.

Thanks.



U.S. Department of Justice
Executive Office for Immigration Review
Office of Policy
5107 Leesburg Pike
Falls Church, Virginia 22041

NOTICE

Contact: Communications and Legislative Affairs Division
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Aug. 23, 2019

Executive Office for Immigration Review Swears in Six New Board Members

FALLS CHURCH, VA – The Executive Office for Immigration Review today announced the investiture of six new Board members. Board of Immigration Appeals Chairman David L. Neal presided over the investiture during a ceremony held Aug. 23, 2019, at EOIR headquarters in Falls Church, Virginia. All six Board members were appointed by Attorney General William Barr in August 2019.

Biographical information follows:

William A. Cassidy, Board Member

Mr. Cassidy comes to the Board after serving as an immigration judge since 1993, when he was initially appointed by former Attorney General Janet Reno. He received a Bachelor of Science in 1975 from Kenyon College and a Juris Doctorate in 1980 from John Marshall/Cleveland State University. From October 1993 to November 1996, Mr. Cassidy served as an immigration judge in New York, and from November 1996 to August 2019, he served as an immigration judge in Atlanta. From 1992 to 1993, he was in private practice with Squire, Sanders & Dempsey, in Cleveland. From 1987 to 1992, he served as both general attorney and as director of training at the former Immigration and Naturalization Service. From 1986 to 1987, and previously from 1981 to 1984, he served as an assistant county prosecutor for the Civil/Criminal Division with Cuyahoga County, Ohio. From 1984 to 1986, he served as law director/prosecutor with the City of North Ridgeville, Ohio. Mr. Cassidy is a member of the Ohio Bar.

V. Stuart Couch, Board Member

Mr. Couch comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in political science in 1987 from Duke University, a Juris Doctor in 1996 from Campbell University, and a Master of Laws in litigation and dispute resolution in 2008 from The George Washington University. From October 2010 to August 2019, Mr. Couch served as an immigration judge in Charlotte, North Carolina. From 2009 to October 2010, he was in private practice in Charlotte, North Carolina. From 2006 to 2009, Mr. Couch served as a senior appellate judge on the U.S. Navy-Marine Corps Court of Criminal Appeals in the District of Columbia. From 2003 to 2006, he was assigned to the Department of Defense, Office of Military

Commissions as a senior prosecutor for select detainees held at Guantánamo Bay, Cuba. From 2001 to 2003, he served as the chief trial counsel and military justice officer for Camp Lejeune, North Carolina. From 1999 to 2001, Mr. Couch was in private practice and served as an assistant district attorney in Beaufort and New Bern, North Carolina. From 1996 to 1999, he served as the chief trial counsel and a special assistant U.S. attorney at Marine Corps Air Station, Cherry Point, North Carolina. Before attending law school, Mr. Couch served as a KC-130 pilot with Marine Aerial Refueler Transport Squadron 252 (VMGR-252) at Marine Corps Air Station Cherry Point from 1989 to 1993. Mr. Couch is a member of the North Carolina State Bar.

Deborah K. Goodwin, Board Member

Ms. Goodwin comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lynch. She earned a Bachelor of Arts in 1986 from Wilson College and a Juris Doctor in 2000 from the State University of New York at Buffalo School of Law. From February 2017 to August 2019, Ms. Goodwin served as an immigration judge in Miami. From 2015 to January 2017, she served as an associate legal advisor for the District Court Litigation Division, Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), in the District of Columbia. From 2007 through 2015, she served as an associate counsel for U.S. Citizenship and Immigration Services, DHS, in San Francisco. From 2002 through 2007, she served as an assistant chief counsel for ICE, DHS, and former Immigration and Naturalization Service, in San Francisco. Ms. Goodwin is a member of the Florida Bar.

Stephanie E. Gorman, Board Member

Ms. Gorman comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lynch. She earned a Bachelor of Science in 1996 from California State University Sacramento, a Juris Doctor in 2002 from the Thomas Jefferson School of Law, and a Master of Laws in 2005 from the University of San Diego School of Law. From February 2017 to August 2019, Ms. Gorman served as an immigration judge in Houston. From 2014 to January 2017, she served as an attorney and legal instructor at the Federal Law Enforcement Training Center in Glynco, Georgia, for the Office of the Chief Counsel, Customs and Border Protection, Department of Homeland Security (DHS). From 2008 through 2014, she served as an assistant chief counsel for the Office of the Principal Legal Advisor, Immigration and Customs Enforcement, DHS. From 2009 through 2012, she also served as a special assistant U.S. attorney for the U.S. Attorney's Office, Middle District of Florida, Department of Justice (DOJ), in Orlando, Florida. From 2007 through 2008, she served as a judicial law clerk for the Honorable M. James Lorenz, U.S. District Court for the Southern District of California, in San Diego. From March 2007 to September 2007, she served as a judicial law clerk for the Honorable Roger T. Benitez, U.S. District Court for the Southern District of California, in San Diego. From 2006 through 2007, she served as an assistant state attorney for the 12th Judicial Circuit, in Sarasota, Fla. From 2003 through 2006, she served in various capacities on the faculty of the Thomas Jefferson School of Law, including as visiting assistant professor of law and senior legal writing instructor and adjunct professor. From 2002 through 2004, she served as an associate attorney for the Law Office of Matthew P. Rocco, in

Carlsbad, California. Ms. Gorman is a member of the State Bar of California and the Florida Bar.

Keith E. Hunsucker, Board Member

Mr. Hunsucker comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in 1984 from the University of Akron and a Juris Doctorate in 1987 from the University of Akron School of Law. From August 2010 to September 2017, Mr. Hunsucker served as an immigration judge in Port Isabel, Texas. From September 2017 to August 2019, Mr. Hunsucker served as an immigration judge in Cleveland. From 2000 to August 2010, he worked as a senior instructor for the Federal Law Enforcement Training Center, Legal Division, Department of Homeland Security, in Glynco, Georgia. From 1992 to 2000, he worked as an attorney for the former Immigration and Naturalization Service (INS), in Atlanta. From 1989 to 1992, he was an attorney for the former INS in Harlingen, Texas. From April 1989 to September 1989, Mr. Hunsucker was a law clerk for the Ohio Court of Appeals, 9th Judicial District. From 1988 to 1989, he was in private practice. From 1987 to 1988, Mr. Hunsucker worked as an INS attorney in the Attorney General's Honors Program, in San Francisco. Mr. Hunsucker is a member of the Ohio State and District of Columbia Bars.

Earle B. Wilson, Board Member

Mr. Wilson comes to the Board after serving as an immigration judge since 2005, when he was initially appointed by former Attorney General Alberto Gonzales. He received a Bachelor of Science in 1979 from Atlantic Union College and a Juris Doctorate in 1989 from Howard University School of Law. From October 2005 to July 2007, Mr. Wilson served as an immigration judge in Miami; from July 2007 to April 2010, he served as an immigration judge in Orlando, Florida; and from April 2010 to August 2019, he served as an immigration judge in Atlanta. From 1998 to 2004, he served as a senior litigation counsel and trial attorney with the Office of Immigration Litigation, Department of Justice, in the District of Columbia. From 1996 to 1998, he served as an assistant U.S. attorney with the U.S. Attorney's Office in Maryland. From 1992 to 1996, he served as senior counsel at the Securities and Exchange Commission in the District of Columbia. From 1990 to 1992, he was an associate attorney with the law firm of Honigman, Miller, Schwartz and Cohn, in Detroit. From 1989 to 1990, he served as law clerk to the Honorable Joseph W. Hatchett of the U.S. Court of Appeals for the 11th Circuit in Tallahassee, Florida. Mr. Wilson is a member of the Maryland State Bar.

— EOIR —

From: [EOIR Director \(EOIR\)](#)
To: [All of EOIR](#)
Subject: New Members of the Board of Immigration Appeals
Date: Friday, August 23, 2019 1:04:03 PM

I am pleased to announce that Attorney General Barr has appointed the following six individuals as permanent members of the Board of Immigration Appeals:

William A. Cassidy, Board Member

Mr. Cassidy comes to the Board after serving as an immigration judge since 1993, when he was initially appointed by former Attorney General Janet Reno. He received a Bachelor of Science in 1975 from Kenyon College and a Juris Doctorate in 1980 from John Marshall/Cleveland State University. From October 1993 to November 1996, Mr. Cassidy served as an immigration judge in New York, and from November 1996 to August 2019, he served as an immigration judge in Atlanta. From 1992 to 1993, he was in private practice with Squire, Sanders & Dempsey, in Cleveland. From 1987 to 1992, he served as both general attorney and as director of training at the former Immigration and Naturalization Service. From 1986 to 1987, and previously from 1981 to 1984, he served as an assistant county prosecutor for the Civil/Criminal Division with Cuyahoga County, Ohio. From 1984 to 1986, he served as law director/prosecutor with the City of North Ridgeville, Ohio. Mr. Cassidy is a member of the Ohio Bar.

V. Stuart Couch, Board Member

Mr. Couch comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in political science in 1987 from Duke University, a Juris Doctor in 1996 from Campbell University, and a Master of Laws in litigation and dispute resolution in 2008 from The George Washington University. From October 2010 to August 2019, Mr. Couch served as an immigration judge in Charlotte, North Carolina. From 2009 to October 2010, he was in private practice in Charlotte, North Carolina. From 2006 to 2009, Mr. Couch served as a senior appellate judge on the U.S. Navy-Marine Corps Court of Criminal Appeals in the District of Columbia. From 2003 to 2006, he was assigned to the Department of Defense, Office of Military Commissions as a senior prosecutor for select detainees held at Guantánamo Bay, Cuba. From 2001 to 2003, he served as the chief trial counsel and military justice officer for Camp Lejeune, North Carolina. From 1999 to 2001, Mr. Couch was in private practice and served as an assistant district attorney in Beaufort and New Bern, North Carolina. From 1996 to 1999, he served as the chief trial counsel and a special assistant U.S. attorney at Marine Corps Air Station, Cherry Point, North Carolina. Before attending law school, Mr. Couch served as a KC-130 pilot with Marine Aerial Refueler Transport Squadron 252 (VMGR-252) at Marine Corps Air Station Cherry Point from 1989 to 1993. Mr. Couch is a member of the North Carolina State Bar.

Deborah K. Goodwin, Board Member

Ms. Goodwin comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lynch. She earned a Bachelor of Arts in 1986 from Wilson College and a Juris Doctor in 2000 from the State University of New York at Buffalo

School of Law. From February 2017 to August 2019, Ms. Goodwin served as an immigration judge in Miami. From 2015 to January 2017, she served as an associate legal advisor for the District Court Litigation Division, Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), in the District of Columbia. From 2007 through 2015, she served as an associate counsel for U.S. Citizenship and Immigration Services, DHS, in San Francisco. From 2002 through 2007, she served as an assistant chief counsel for ICE, DHS, and former Immigration and Naturalization Service, in San Francisco. Ms. Goodwin is a member of the Florida Bar.

Stephanie E. Gorman, Board Member

Ms. Gorman comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lynch. She earned a Bachelor of Science in 1996 from California State University Sacramento, a Juris Doctor in 2002 from the Thomas Jefferson School of Law, and a Master of Laws in 2005 from the University of San Diego School of Law. From February 2017 to August 2019, Ms. Gorman served as an immigration judge in Houston. From 2014 to January 2017, she served as an attorney and legal instructor at the Federal Law Enforcement Training Center in Glynco, Georgia, for the Office of the Chief Counsel, Customs and Border Protection, Department of Homeland Security (DHS). From 2008 through 2014, she served as an assistant chief counsel for the Office of the Principal Legal Advisor, Immigration and Customs Enforcement, DHS. From 2009 through 2012, she also served as a special assistant U.S. attorney for the U.S. Attorney's Office, Middle District of Florida, Department of Justice (DOJ), in Orlando, Florida. From 2007 through 2008, she served as a judicial law clerk for the Honorable M. James Lorenz, U.S. District Court for the Southern District of California, in San Diego. From March 2007 to September 2007, she served as a judicial law clerk for the Honorable Roger T. Benitez, U.S. District Court for the Southern District of California, in San Diego. From 2006 through 2007, she served as an assistant state attorney for the 12th Judicial Circuit, in Sarasota, Fla. From 2003 through 2006, she served in various capacities on the faculty of the Thomas Jefferson School of Law, including as visiting assistant professor of law and senior legal writing instructor and adjunct professor. From 2002 through 2004, she served as an associate attorney for the Law Office of Matthew P. Rocco, in Carlsbad, California. Ms. Gorman is a member of the State Bar of California and the Florida Bar.

Keith E. Hunsucker, Board Member

Mr. Hunsucker comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in 1984 from the University of Akron and a Juris Doctorate in 1987 from the University of Akron School of Law. From August 2010 to September 2017, Mr. Hunsucker served as an immigration judge in Port Isabel, Texas. From September 2017 to August 2019, Mr. Hunsucker served as an immigration judge in Cleveland. From 2000 to August 2010, he worked as a senior instructor for the Federal Law Enforcement Training Center, Legal Division, Department of Homeland Security, in Glynco, Georgia. From 1992 to 2000, he worked as an attorney for the former Immigration and Naturalization Service (INS), in Atlanta. From 1989 to 1992, he was an attorney for the former INS in Harlingen, Texas. From April 1989 to September 1989, Mr. Hunsucker was a law clerk for the Ohio Court of Appeals, 9th Judicial District. From 1988 to 1989, he was in private practice. From 1987 to 1988, Mr. Hunsucker worked as an INS attorney in the Attorney General's Honors Program, in San Francisco. Mr.

Hunsucker is a member of the Ohio State and District of Columbia Bars.

Earle B. Wilson, Board Member

Mr. Wilson comes to the Board after serving as an immigration judge since 2005, when he was initially appointed by former Attorney General Alberto Gonzales. He received a Bachelor of Science in 1979 from Atlantic Union College and a Juris Doctorate in 1989 from Howard University School of Law. From October 2005 to July 2007, Mr. Wilson served as an immigration judge in Miami; from July 2007 to April 2010, he served as an immigration judge in Orlando, Florida; and from April 2010 to August 2019, he served as an immigration judge in Atlanta. From 1998 to 2004, he served as a senior litigation counsel and trial attorney with the Office of Immigration Litigation, Department of Justice, in the District of Columbia. From 1996 to 1998, he served as an assistant U.S. attorney with the U.S. Attorney's Office in Maryland. From 1992 to 1996, he served as senior counsel at the Securities and Exchange Commission in the District of Columbia. From 1990 to 1992, he was an associate attorney with the law firm of Honigman, Miller, Schwartz and Cohn, in Detroit. From 1989 to 1990, he served as law clerk to the Honorable Joseph W. Hatchett of the U.S. Court of Appeals for the 11th Circuit in Tallahassee, Florida. Mr. Wilson is a member of the Maryland State Bar.

Please join me in congratulating our new Board members!

James McHenry
Director

From: [McHenry, James \(EOIR\)](#)
To: [Alder Reid, Lauren \(EOIR\)](#)
Subject: New Members of the Board of Immigration Appeals
Date: Friday, August 23, 2019 8:19:00 AM

Would you send this out around 2:45 PM today?
Thanks.

I am pleased to announce that Attorney General Barr has appointed the following six individuals as permanent members of the Board of Immigration Appeals:

William A. Cassidy, Board Member

Mr. Cassidy comes to the Board after serving as an immigration judge since 1993, when he was initially appointed by former Attorney General Janet Reno. He received a Bachelor of Science in 1975 from Kenyon College and a Juris Doctorate in 1980 from John Marshall/Cleveland State University. From October 1993 to November 1996, Mr. Cassidy served as an immigration judge in New York, and from November 1996 to August 2019, he served as an immigration judge in Atlanta. From 1992 to 1993, he was in private practice with Squire, Sanders & Dempsey, in Cleveland. From 1987 to 1992, he served as both general attorney and as director of training at the former Immigration and Naturalization Service. From 1986 to 1987, and previously from 1981 to 1984, he served as an assistant county prosecutor for the Civil/Criminal Division with Cuyahoga County, Ohio. From 1984 to 1986, he served as law director/prosecutor with the City of North Ridgeville, Ohio. Mr. Cassidy is a member of the Ohio Bar.

V. Stuart Couch, Board Member

Mr. Couch comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in political science in 1987 from Duke University, a Juris Doctor in 1996 from Campbell University, and a Master of Laws in litigation and dispute resolution in 2008 from The George Washington University. From October 2010 to August 2019, Mr. Couch served as an immigration judge in Charlotte, North Carolina. From 2009 to October 2010, he was in private practice in Charlotte, North Carolina. From 2006 to 2009, Mr. Couch served as a senior appellate judge on the U.S. Navy-Marine Corps Court of Criminal Appeals in the District of Columbia. From 2003 to 2006, he was assigned to the Department of Defense, Office of Military Commissions as a senior prosecutor for select detainees held at Guantánamo Bay, Cuba. From 2001 to 2003, he served as the chief trial counsel and military justice officer for Camp Lejeune, North Carolina. From 1999 to 2001, Mr. Couch was in private practice and served as an assistant district attorney in Beaufort and New Bern, North Carolina. From 1996 to 1999, he served as the chief trial counsel and a special assistant U.S. attorney at Marine Corps Air Station, Cherry Point, North Carolina. Before attending law school, Mr. Couch served as a KC-130 pilot with Marine Aerial Refueler Transport Squadron 252 (VMGR-252) at Marine Corps Air Station Cherry Point from 1989 to 1993. Mr. Couch is a member of the North Carolina State Bar.

Deborah K. Goodwin, Board Member

Ms. Goodwin comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lynch. She earned a Bachelor of Arts in 1986 from Wilson College and a Juris Doctor in 2000 from the State University of New York at Buffalo School of Law. From February 2017 to August 2019, Ms. Goodwin served as an immigration judge in Miami. From 2015 to January 2017, she served as an associate legal advisor for the District Court Litigation Division, Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), in the District of Columbia. From 2007 through 2015, she served as an associate counsel for U.S. Citizenship and Immigration Services, DHS, in San Francisco. From 2002 through 2007, she served as an assistant chief counsel for ICE, DHS, and former Immigration and Naturalization Service, in San Francisco. Ms. Goodwin is a member of the Florida Bar.

Stephanie E. Gorman, Board Member

Ms. Gorman comes to the Board after serving as an immigration judge since 2017, when she was initially appointed by former Attorney General Loretta Lunch. She earned a Bachelor of Science in 1996 from California State University Sacramento, a Juris Doctor in 2002 from the Thomas Jefferson School of Law, and a Master of Laws in 2005 from the University of San Diego School of Law. From February 2017 to August 2019, Ms. Gorman served as an immigration judge in Houston. From 2014 to January 2017, she served as an attorney and legal instructor at the Federal Law Enforcement Training Center in Glynco, Georgia, for the Office of the Chief Counsel, Customs and Border Protection, Department of Homeland Security (DHS). From 2008 through 2014, she served as an assistant chief counsel for the Office of the Principal Legal Advisor, Immigration and Customs Enforcement, DHS. From 2009 through 2012, she also served as a special assistant U.S. attorney for the U.S. Attorney's Office, Middle District of Florida, Department of Justice (DOJ), in Orlando, Florida. From 2007 through 2008, she served as a judicial law clerk for the Honorable M. James Lorenz, U.S. District Court for the Southern District of California, in San Diego. From March 2007 to September 2007, she served as a judicial law clerk for the Honorable Roger T. Benitez, U.S. District Court for the Southern District of California, in San Diego. From 2006 through 2007, she served as an assistant state attorney for the 12th Judicial Circuit, in Sarasota, Fla. From 2003 through 2006, she served in various capacities on the faculty of the Thomas Jefferson School of Law, including as visiting assistant professor of law and senior legal writing instructor and adjunct professor. From 2002 through 2004, she served as an associate attorney for the Law Office of Matthew P. Rocco, in Carlsbad, California. Ms. Gorman is a member of the State Bar of California and the Florida Bar.

Keith E. Hunsucker, Board Member

Mr. Hunsucker comes to the Board after serving as an immigration judge since 2010, when he was initially appointed by former Attorney General Eric Holder. He received a Bachelor of Arts in 1984 from the University of Akron and a Juris Doctorate in 1987 from the University of Akron School of Law. From August 2010 to September 2017, Mr. Hunsucker served as an immigration judge in Port Isabel, Texas. From September 2017 to August 2019, Mr. Hunsucker served as an immigration judge in Cleveland. From 2000 to August 2010, he worked as a senior instructor for the Federal Law Enforcement Training Center, Legal Division, Department of Homeland Security, in Glynco, Georgia.

From 1992 to 2000, he worked as an attorney for the former Immigration and Naturalization Service (INS), in Atlanta. From 1989 to 1992, he was an attorney for the former INS in Harlingen, Texas. From April 1989 to September 1989, Mr. Hunsucker was a law clerk for the Ohio Court of Appeals, 9th Judicial District. From 1988 to 1989, he was in private practice. From 1987 to 1988, Mr. Hunsucker worked as an INS attorney in the Attorney General's Honors Program, in San Francisco. Mr. Hunsucker is a member of the Ohio State and District of Columbia Bars.

Earle B. Wilson, Board Member

Mr. Wilson comes to the Board after serving as an immigration judge since 2005, when he was initially appointed by former Attorney General Alberto Gonzales. He received a Bachelor of Science in 1979 from Atlantic Union College and a Juris Doctorate in 1989 from Howard University School of Law. From October 2005 to July 2007, Mr. Wilson served as an immigration judge in Miami; from July 2007 to April 2010, he served as an immigration judge in Orlando, Florida; and from April 2010 to August 2019, he served as an immigration judge in Atlanta. From 1998 to 2004, he served as a senior litigation counsel and trial attorney with the Office of Immigration Litigation, Department of Justice, in the District of Columbia. From 1996 to 1998, he served as an assistant U.S. attorney with the U.S. Attorney's Office in Maryland. From 1992 to 1996, he served as senior counsel at the Securities and Exchange Commission in the District of Columbia. From 1990 to 1992, he was an associate attorney with the law firm of Honigman, Miller, Schwartz and Cohn, in Detroit. From 1989 to 1990, he served as law clerk to the Honorable Joseph W. Hatchett of the U.S. Court of Appeals for the 11th Circuit in Tallahassee, Florida. Mr. Wilson is a member of the Maryland State Bar.

Please join me in congratulating our new Board members!

James McHenry
Director