

BOARD OF IMMIGRATION APPEALS

Matter of M-K-

29 I&N Dec. 556 (BIA 2026) (Interim Decision No. 4182) · No. Interim Decision #4182 · Decided April 9, 2026

SUMMARY

The Board of Immigration Appeals dismissed the respondent’s appeal from an Immigration Judge’s decision sustaining removability under INA sections 237(a)(4)(C)(i) and 237(a)(1)(A). The Board held that the Secretary of State’s adverse foreign-policy determination was presumptive and sufficient evidence of removability, and that the respondent’s failure to disclose his involvement with UNRWA was a willful and material misrepresentation. The Board also denied the motion to remand and affirmed the discretionary denial of a section 237(a)(1)(H) waiver and the denial of asylum, withholding of removal, and CAT protection.

CASE DETAILS

COURT	Board of Immigration Appeals
WRITING FOR THE COURT	Malphrus, Chief Appellate Immigration Judge; Hunsucker, Appellate Immigration Judge; Gemoets, Appellate Immigration Judge
JURISDICTION	Board of Immigration Appeals
DECIDED	April 9, 2026
DOCKET	Interim Decision #4182
DISPOSITION	dismissed
PROCEDURAL POSTURE	The respondent appealed an Immigration Judge's decision sustaining charges of removability and denying a waiver under INA section 237(a)(1)(H), and moved to remand to present previously unavailable evidence and seek voluntary departure.
STANDARD OF REVIEW	The Board reviews the Immigration Judge's factual findings for clear error and all other issues de novo. 8 C.F.R. § 1003.1(d)(3)(i)-(ii) (2026).
PRECEDENTIAL VALUE	Published precedential decision of the Board of Immigration Appeals
PARTIES	M-K-, Respondent v. Department of Homeland Security

TOPICS

- removal proceedings
- immigration
- asylum
- foreign affairs
- statutory interpretation

PRACTICE AREAS

immigration law

removal proceedings

asylum and withholding of removal

administrative law

foreign affairs

QUESTIONS PRESENTED

1. Whether the Secretary of State's letter was presumptive and sufficient evidence to establish removability under INA section 237(a)(4)(C)(i) without additional evidence or inquiry into the Secretary's foreign-policy determination.
2. Whether the respondent's failure to disclose his involvement with UNRWA on Form I-485 constituted a willful and material misrepresentation supporting removability under INA section 237(a)(1)(A).
3. Whether the respondent was statutorily eligible for an INA section 237(a)(1)(H) waiver under the prospective rule announced in *Matter of Forjoe*, and whether the waiver should nevertheless be denied as a matter of discretion.
4. Whether the respondent was entitled to remand based on newly presented evidence, alleged constitutional violations, discovery requests, or a challenge to the Secretary of State's authority.
5. Whether the respondent established eligibility for asylum, withholding of removal, or CAT protection in Algeria or Syria.
6. Whether the respondent established a prima facie case for post-conclusion voluntary departure warranting remand.

HOLDINGS

1. A facially valid letter from the Secretary of State stating that the respondent's presence would have potentially serious adverse foreign-policy consequences is presumptive and sufficient evidence of removability under INA section 237(a)(4)(C)(i); DHS need not present additional evidence of removability.
2. The respondent's willful failure to disclose his involvement and association with UNRWA on Form I-485 was a material misrepresentation supporting removability under INA section 237(a)(1)(A).
3. Under *Matter of Forjoe*, the respondent was statutorily eligible to seek an INA section 237(a)(1)(H) waiver because his prior lawful entry after inspection and authorization constituted the relevant admission; the Board's reversal of the Immigration Judge's statutory-ineligibility finding applied prospectively.
4. The Immigration Judge properly denied the section 237(a)(1)(H) waiver as a matter of discretion because the negative factors outweighed the respondent's equities, including because the Secretary of State's letter alone outweighed the favorable factors.
5. The respondent was barred from asylum because the Secretary of State's letter provided reasonable grounds to find that his activities and presence posed a danger to the security of the United States through potentially serious adverse foreign-policy consequences.

6. The respondent failed to establish eligibility for asylum on the merits, statutory withholding of removal, or CAT protection in Algeria or Syria.
7. The respondent was not entitled to remand because he failed to show that the newly presented evidence or voluntary-departure request was reasonably likely to change the outcome or that he had made a prima facie showing of eligibility.

KEY QUOTATIONS

“If we looked behind the facially valid basis for the letter from the Secretary of State, it “would necessarily require the Immigration Judge and this Board to intrude into the realm of foreign policy.”” (558)

“We therefore affirm the Immigration Judge’s conclusion that DHS established the respondent’s removability under section 237(a)(4)(C)(i) of the INA, 8 U.S.C. § 1227(a)(4)(C)(i), by clear and convincing evidence through submission of Secretary Rubio’s letter.” (559)

“We affirm the Immigration Judge’s determination that the negative factor of Secretary Rubio’s letter alone outweighs these equities.” (563-564)

FACTUAL BACKGROUND

The respondent, a native of Syria and citizen of Algeria, entered the United States in December 2022 and later became a conditional permanent resident. The Secretary of State determined that his presence would have potentially serious adverse foreign-policy consequences based on his participation in antisemitic protests and disruptive activities. The respondent also failed to disclose on his Form I-485 that he had been involved or associated with the United Nations Relief and Works Agency for Palestine Refugees for approximately six months. He sought asylum, withholding of removal, CAT protection, and a waiver under INA section 237(a)(1)(H), relying in part on his United States citizen wife, son, and other equities.

PROCEDURAL HISTORY

The Department of Homeland Security charged the respondent with removability under INA sections 237(a)(4)(C)(i) and 237(a)(1)(A). The Immigration Judge sustained both charges, denied asylum, withholding of removal, and Convention Against Torture protection, and denied the section 237(a)(1)(H) waiver as both statutorily unavailable and, alternatively, unwarranted as a matter of discretion. After a district court injunction concerning the foreign-policy charge was vacated by the Third Circuit, the Board reviewed the Immigration Judge's rulings, reversed the statutory-ineligibility determination concerning the waiver, but affirmed the discretionary denial and all removability and protection determinations. The Board dismissed the appeal and denied the motions to remand.

DISPOSITION

dismissed

CASES CITED

- Matter of Ruiz-Massieu, 22 I&N Dec. 833, 842, 844-45 (BIA 1999)

- Khalil v. Trump, 786 F. Supp. 3d 871, 880 (D.N.J. 2025)
- Khalil v. President, 164 F.4th 259, 276, 279-81 (3d Cir. 2026)
- Matter of Mariscal-Hernandez, 28 I&N Dec. 666, 673 (BIA 2022)
- Matter of J.J. Rodriguez, 27 I&N Dec. 762, 765-66 (BIA 2020)
- Matter of D-R-, 25 I&N Dec. 445, 454 (BIA 2011)
- Radojkovic v. Holder, 599 F. App'x 646 (9th Cir. 2015)
- Matter of B-Y-, 25 I&N Dec. 236, 244 (BIA 2010)
- Kungys v. United States, 485 U.S. 759, 770 (1988)
- Matter of Agour, 26 I&N Dec. 566 (BIA 2015)
- Matter of Forjoe, 29 I&N Dec. 463, 471-72 (BIA 2026)
- Matter of M-C-C-, 29 I&N Dec. 401, 406 (BIA 2026)
- Matter of Tijam, 22 I&N Dec. 408, 412-13 (BIA 1998)
- Okpala v. Whitaker, 908 F.3d 965, 971 (5th Cir. 2018)
- INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (per curiam)
- Matter of L-A-C-, 26 I&N Dec. 516, 526 n.7 (BIA 2015)
- Pereida v. Wilkinson, 592 U.S. 224, 227 (2021)
- Matter of Benitez, 19 I&N Dec. 173, 174 (BIA 1984)
- Matter of Garcia, 28 I&N Dec. 693, 695 (BIA 2023)
- American Association of University Professors v. Rubio, 802 F. Supp. 3d 120 (D. Mass. 2025)
- Qorane v. Barr, 919 F.3d 904, 911-12 (5th Cir. 2019)
- Matter of L-O-G-, 21 I&N Dec. 413, 419 (BIA 1996)
- Cooper v. Harris, 581 U.S. 285, 293 (2017)
- Matter of D-J-L-, 29 I&N Dec. 485, 487 (BIA 2026)
- Day v. Holder, 687 F.3d 653, 658-59 (5th Cir. 2012)
- Tamara-Gomez v. Gonzales, 447 F.3d 343, 350-51 (5th Cir. 2006)
- Matter of J-H-M-H-, 29 I&N Dec. 278, 283 (BIA 2025)
- Matter of A-A-R-, 29 I&N Dec. 38, 40-41 (BIA 2025)
- Matter of R-A-F-, 27 I&N Dec. 778, 779 (A.G. 2020)
- Efe v. Ashcroft, 293 F.3d 899, 907 (5th Cir. 2002)
- Matter of J-F-F-, 23 I&N Dec. 912, 917-18 & n.4 (A.G. 2006)
- Matter of S-V-, 22 I&N Dec. 1306, 1313 (BIA 2000)
- Chen v. Gonzales, 470 F.3d 1131, 1142 (5th Cir. 2006)
- Matter of M-S-I-, 29 I&N Dec. 61, 64 (BIA 2025)
- Matter of Coelho, 20 I&N Dec. 464, 471 (BIA 1992)
- Parada-Orellana v. Garland, 21 F.4th 887, 893 (5th Cir. 2022)
- INS v. Abudu, 485 U.S. 94, 104-05 (1988)
- Matter of Pinzon, 26 I&N Dec. 189, 196 (BIA 2013)

