

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Juliana Martinez Arreaga Bravo v. Attorney General United States of America

No. 20-3300, United States Court of Appeals for the Third Circuit (March 2, 2022)

SUMMARY

The Third Circuit held that the Board of Immigration Appeals (BIA) violated the clearly erroneous standard of review under 8 C.F.R. § 1003.1(d)(3)(i) when it reversed an Immigration Judge's (IJ) factual findings on likelihood of future torture and government acquiescence under the Convention Against Torture (CAT). The BIA improperly substituted its own weighing of evidence for the IJ's, rather than deferring unless the IJ's findings were clearly erroneous. The court vacated the removal order and remanded, emphasizing that the IJ's detailed findings—based on the petitioner's credible testimony, family history of violence, and country conditions showing pervasive femicide and police inaction—were permissible views of the evidence. Key topics: CAT withholding of removal, clear error review, BIA appellate authority, government acquiescence, and particularized risk of torture.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	GREENAWAY, JR.; MCKEE; RESTREPO
JURISDICTION	Federal
DECIDED	March 2, 2022
DOCKET	20-3300
DISPOSITION	vacated
PROCEDURAL POSTURE	On Petition for Review of a Decision And Order of the Board of Immigration Appeals
STANDARD OF REVIEW	We review de novo whether the agency properly analyzed the applicant’s CAT protection claim. The BIA must review the IJ's factual findings for clear error and legal conclusions de novo.
PRECEDENTIAL VALUE	Published
PARTIES	Juliana Martinez Arreaga Bravo v. Attorney General United States of America

TOPICS

PRACTICE AREAS

Immigration Law

QUESTIONS PRESENTED

1. Whether the BIA erred in failing to apply the clearly erroneous standard to the IJ's factual findings regarding the likelihood of future torture.
2. Whether the BIA erred in failing to apply the clearly erroneous standard to the IJ's factual findings regarding government acquiescence to torture.

HOLDINGS

1. The BIA erred by substituting its own view of the evidence for that of the IJ rather than reviewing for clear error. The BIA's conclusion that it was 'not sufficiently persuaded' and 'unable to agree' with the IJ's findings does not meet the clear error standard.

KEY QUOTATIONS

"the clear error 'standard plainly does not entitle a reviewing court to reverse the finding of the trier of fact simply because it is convinced that it would have decided the case differently.'" (at 15-16)

"a finding is clearly erroneous 'when . . . the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.'" (at 15)

"It was not the BIA's role to determine whether it agreed with the IJ's weighing of the evidence in Arreaga-Bravo's favor. Its role was to point to findings by the IJ that were 'an obvious, plain, gross, significant, or manifest error or miscalculation.'" (at 16)

FACTUAL BACKGROUND

Petitioner Juliana Martinez Arreaga Bravo is a woman from Tacana, Guatemala. She fled to the United States in 2016 after experiencing harassment and threats from the Mara 18 gang, including being grabbed on the street, held at knifepoint, and threatened with death if she did not join the gang. Her sisters had been raped by gang members, and the police failed to investigate or prosecute. Country conditions evidence showed pervasive violence against women in Guatemala, with high rates of femicide and impunity. The IJ found her credible and determined it was more likely than not she would be tortured if returned, and that the Guatemalan government would acquiesce.

PROCEDURAL HISTORY

The Immigration Judge granted CAT relief and ordered withholding of removal. The Department of Homeland Security appealed, and the Board of Immigration Appeals reversed, instituting a removal order. Petitioner sought review in the Third Circuit.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the BIA's final order of removal and remand for further proceedings consistent with this opinion.

CASES CITED

- Chavarria v. Gonzalez, 446 F.3d 508 (3d Cir. 2006)
- Quinteros v. Att'y Gen., 945 F.3d 772 (3d Cir. 2019)
- Kaplun v. Att'y Gen., 602 F.3d 260 (3d Cir. 2010)
- Myrie v. Att'y Gen., 855 F.3d 509 (3d Cir. 2017)
- United States v. Murray, 821 F.3d 386 (3d Cir. 2016)
- Fed. Trade Comm'n v. AbbVie Inc., 976 F.3d 327 (3d Cir. 2020)
- Mendoza-Ordonez v. Att'y Gen., 869 F.3d 164 (3d Cir. 2017)
- Alimbaev v. Att'y Gen., 872 F.3d 188 (3d Cir. 2017)
- Anderson v. City of Bessemer, 470 U.S. 564 (1985)