

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Restrepo Castano v. Bondi

No. 24-2117 (1st Cir. Nov. 26, 2025) · No. 24-2117 · Decided November 26, 2025

SUMMARY

The United States Court of Appeals for the First Circuit reviewed a petition challenging the Board of Immigration Appeals’ denial of asylum and withholding of removal to a Colombian national and his derivative family members. The court held that substantial evidence supported the agency’s finding that the Colombian government was willing and able to protect the family from threats by the Gulf Clan. The court denied the petition for review.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Rikelman, Circuit Judge; Barron, Chief Judge; Lipez, Circuit Judge
JURISDICTION	United States Court of Appeals for the First Circuit
DECIDED	November 26, 2025
DOCKET	24-2117
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for review of a Board of Immigration Appeals order dismissing Castano's appeal from an Immigration Judge's denial of asylum, withholding of removal, and Convention Against Torture protection.
STANDARD OF REVIEW	The court reviewed the BIA's final decision and the IJ's reasoning to the extent the BIA adopted or deferred to it. Whether a government is unwilling or unable to protect an asylum applicant from harm by a private actor is a factual question reviewed for substantial evidence, meaning the finding is upheld unless the record compels a contrary conclusion. The BIA reviews the IJ's factual findings for clear error.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	John Restrepo Castano, Diana Lopez Valencia, M.R.L. v. Pamela J. Bondi, Attorney General

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the agency's finding that the Colombian government was willing and able to protect Castano and his family from the Gulf Clan.
2. Whether the BIA was required to review de novo the issue whether the undisputed facts showed that Colombia was unable to protect Castano's family.
3. Whether the agency committed legal error by failing to consider that telephone threats continued despite the police response.

HOLDINGS

1. Substantial evidence supported the agency's determination that Colombia was able to protect Castano and his family; the continued telephone threats, without more, did not compel a contrary conclusion.
2. Because Castano failed to show that Colombia was unwilling or unable to control the Gulf Clan, he failed to establish the required government nexus and was ineligible for asylum and withholding of removal.
3. The BIA properly reviewed the IJ's unwilling-or-unable determination for clear error rather than de novo.
4. The BIA did not commit legal error by overlooking the continued telephone threats; its decision adequately addressed that evidence and sufficiently explained its reasoning.

KEY QUOTATIONS

"Whether a government is unwilling or unable to protect an asylum applicant from harm caused by a private actor is a question of fact." (at 7)

"no government c[an] provide the sort of absolute protection [Castano] seeks." (at 11)

"the mere fact that a government is not entirely successful in combatting crime is not enough to establish that it is unable to protect an applicant seeking refugee status under the immigration laws." (at 12)

"where a government makes a concerted effort to combat a particular problem, the fact of limited success is not evidence that the government is unable or unwilling to control it." (at 20)

FACTUAL BACKGROUND

The Gulf Clan threatened to kill Castano, his wife, and his child unless Castano provided monetary or political support. After armed gang members threatened Castano at his bakery, he reported the conduct to Colombian police, who stationed a guard at the bakery, investigated the complaint, and blocked phone numbers used by the

gang. The in-person threats stopped, although telephone threats from different numbers continued, and Castano and his family later fled to the United States without suffering physical harm.

PROCEDURAL HISTORY

Castano and his family entered the United States without inspection and were placed in removal proceedings after the Department of Homeland Security served Notices to Appear. The Immigration Judge credited Castano's testimony but denied relief, finding that he failed to establish that the Colombian government was unwilling or unable to protect him from the Gulf Clan. The BIA dismissed his appeal, and Castano timely petitioned the First Circuit for review.

DISPOSITION

writ_denied

CASES CITED

- Cabrera v. Garland, 100 F.4th 312, 315 n.1 (1st Cir. 2024)
- Barnica-Lopez v. Garland, 59 F.4th 520, 525 n.1, 527-28 (1st Cir. 2023)
- Adeyanju v. Garland, 27 F.4th 25, 31 (1st Cir. 2022)
- Khalil v. Garland, 97 F.4th 54, 61 (1st Cir. 2024)
- Loja-Tene v. Barr, 975 F.3d 58, 60 (1st Cir. 2020)
- Chavez v. Garland, 51 F.4th 424, 429 (1st Cir. 2022)
- Pineda-Maldonado v. Garland, 91 F.4th 76, 80 (1st Cir. 2024)
- Medina-Suguilanda v. Garland, 121 F.4th 316, 322-24 (1st Cir. 2024)
- Espinoza-Ochoa v. Garland, 89 F.4th 222, 230 (1st Cir. 2023)
- De Pena-Paniagua v. Barr, 957 F.3d 88, 92 (1st Cir. 2020)
- Khan v. Holder, 727 F.3d 1, 7-8 (1st Cir. 2013)
- Sanchez-Vasquez v. Garland, 994 F.3d 40, 46 (1st Cir. 2021)
- Aguilar-Escoto v. Sessions, 874 F.3d 334, 337-38 (1st Cir. 2017)
- Singh v. Garland, 87 F.4th 52, 61-62 (1st Cir. 2023)
- INS v. Bagamasbad, 429 U.S. 24, 25-26 (1976)
- SEC v. Chenery Corp., 332 U.S. 194, 196 (1947)
- Morales-Morales v. Sessions, 857 F.3d 130, 135 (1st Cir. 2017)
- Penafiel-Peralta v. Garland, 115 F.4th 1, 10 (1st Cir. 2024)
- Burbienne v. Holder, 568 F.3d 251, 255-56 (1st Cir. 2009)
- Gómez-Medina v. Barr, 975 F.3d 27, 32 (1st Cir. 2020)
- Ortiz-Araniba v. Keisler, 505 F.3d 39, 43 (1st Cir. 2007)
- Rosales Justo v. Sessions, 895 F.3d 154, 156, 164, 167 (1st Cir. 2018)
- Vila-Castro v. Garland, 77 F.4th 10, 14 (1st Cir. 2023)

- J.R. v. Barr, 975 F.3d 778, 780-84 (9th Cir. 2020)
- Aguilar v. Garland, No. 23-1256, 2024 WL 3886973, at *2 (9th Cir. Aug. 21, 2024)
- Hidalgo-Nunez v. Garland, No. 22-9518, 2022 WL 6861520, at *3 (10th Cir. Oct. 12, 2022)
- Lopez Perez v. Holder, 587 F.3d 456, 460-61 (1st Cir. 2009)

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