

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRISEYDA MEZA
DIAZ; GABRIELA SEGUNDO
MEZA,

Petitioners,

v.

PAMELA BONDI, Attorney
General,

Respondent.

No. 23-973

Agency Nos.
A209-390-110
A209-390-111

ORDER AND
AMENDED
OPINION

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

Submitted July 18, 2024*
Pasadena, California

Filed October 8, 2024
Amended February 25, 2025

Before: Kim McLane Wardlaw, Richard A. Paez, and
Gabriel P. Sanchez, Circuit Judges.

Order;
Opinion by Judge Paez

* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

SUMMARY**

Immigration

The panel filed (1) an order (a) amending the opinion filed on October 8, 2024; (b) denying as moot the government's petition for panel rehearing; and (c) indicating that no further petitions for rehearing or rehearing en banc will be allowed; and (2) an amended opinion granting Briseyda Meza Diaz's petition for review of the Board of Immigration Appeals' decision affirming the denial of asylum and withholding of removal.

In the amended opinion, the panel held that the record evidence compelled the conclusion that Meza Diaz experienced harm committed by forces that Mexican authorities are either unable or unwilling to control and the BIA legally erred by failing to consider highly probative evidence regarding a nexus between the harm and a protected ground.

The panel held that, in concluding that Meza Diaz failed to establish a nexus between the harm she suffered and her family status, the agency erred by failing to consider key evidence, including Meza Diaz's attackers' statements and additional evidence contained in a police report.

Meza Diaz also presented compelling evidence indicating that the police were either unable or unwilling to control her attackers. First, contrary to the agency's statements otherwise, Meza Diaz provided police with

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

information regarding her attackers' identities, including the history of the harm she and her family experienced that, at minimum, should have provided a starting point for an investigation. Moreover, although the police assisted Meza Diaz's family and allowed her to file a report, the police official's admonition that authorities could not ensure her safety and that she should therefore flee the country demonstrated that Mexican officials were, in fact, either unable or unwilling to protect her. Other record evidence also corroborated that Mexican officials are either unable or unwilling to protect their citizens from cartel violence.

The panel remanded for the BIA to reconsider its determination on the nexus element of past persecution and, if appropriate, rule on whether the harm Meza Diaz experienced rose to the level of persecution. The panel also remanded for further proceedings on Meza Diaz's claim of future persecution.

COUNSEL

Mardy M. Sproule, Law Offices of Mardy M. Sproule, Whittier, California, for Petitioners.

Nancy Pham, Madeline Henley, and Sarah L. Martin, Trial Attorneys; Corey L. Farrell and Claire L. Workman, Senior Litigation Counsels; Brian M. Boynton, Principal Deputy Attorney General, Civil Division; Office of Immigration Litigation, Washington, D.C.; for Respondent.

ORDER

The opinion filed on October 8, 2024 (Dkt. 40) is amended by the Amended Opinion filed concurrently with this order. The government’s petition for panel rehearing (Dkt. 48) is denied as moot. No further petitions for rehearing or rehearing en banc will be allowed.

OPINION

PAEZ, Circuit Judge:

Petitioner Briseyda Meza Diaz (“Meza Diaz”) and her minor daughter, Gabriela Segundo Meza (“GSM”), fled Mexico after suffering a home invasion by hooded, armed men who held a weapon to Meza Diaz’s head, told her that she was going to die, and then beat her unconscious. The home invasion followed years of death threats received by Meza Diaz after her brother was murdered and her husband was abducted. When Meza Diaz went to the local police to report the threats and beating, they told her that they could not protect her and encouraged her to flee the country, even offering her a ride to the airport. Meza Diaz and GSM fled Mexico the next day out of fear for their safety. They presented themselves to authorities at the United States border and sought asylum and other relief.

When Meza Diaz and GSM sought asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”), an Immigration Judge (“IJ”) and the Board

of Immigration Appeals (“BIA”) denied all forms of relief and ordered Meza Diaz and GSM removed.¹

Meza Diaz petitions for review of the BIA’s denial of her appeal of the IJ’s decision. We conclude that the record compels a finding that Meza Diaz experienced harm by forces that Mexican officials are either unable or unwilling to control. The BIA also committed legal error in its analysis of nexus. We grant the petition as to Meza Diaz’s asylum and withholding claims and remand for further proceedings consistent with this opinion.

I. Factual and Procedural Background

A. Experiences in Mexico

Meza Diaz’s interactions with the cartel began when she was a minor. In 2000, Meza Diaz’s brother, Ismar Arreola Meza, and his grandmother were murdered by cartel members in the Mexican state of Michoacan. At the time, Meza Diaz was seventeen and living with her siblings and mother in Magueyes, Turicato, a town in Michoacan. Following an investigation, authorities in Michoacan charged four individuals with their murders. The individuals were ultimately sentenced to fourteen years in prison for the murders.

Meza Diaz and her family received death threats by phone and by mail following her brother’s murder. Meza Diaz’s mother initially reported the threats to the police. The police occasionally patrolled the neighborhood for a time, but the threats did not stop. In several conversations, the

¹ Meza Diaz included GSM as a derivative beneficiary of her asylum application. GSM did not file a separate application for relief. We accordingly remand GSM’s claims as a beneficiary of Meza Diaz’s application. *See* 8 U.S.C. § 1158(b)(3)(A).

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