

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Argued November 15, 2023

Decided December 14, 2023

Before

DIANE S. SYKES, *Chief Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 21-1409

DENIA RAQUEL ALFARO BONILLA,
Petitioner,

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

v.

No. A206-684-601

MERRICK B. GARLAND,
Attorney General of the United States,
Respondent.

ORDER

Denia Raquel Alfaro Bonilla and her minor son, both Honduran citizens, petition for review of the denial of their applications for asylum and withholding of removal. Alfaro Bonilla sought relief on the basis that she had been, and would continue to be, persecuted by Honduran gangs who previously targeted her husband. Because substantial evidence supports the determinations that Alfaro Bonilla did not satisfy her statutory burden of showing past persecution or risk of future persecution on account of a protected status, we deny the petition for review.

I. Background

In 2014 Alfaro Bonilla and her son entered the United States without the required authorization. The Department of Homeland Security initiated removal proceedings. Alfaro Bonilla and her son conceded removability but sought asylum and withholding of removal based on membership in a particular social group of domestic-violence victims. In 2017 Alfaro Bonilla had another son, who is a United States citizen.

Alfaro Bonilla explained in her application that she came to the United States to escape the abuse of Jhonny Matute Mijango—her husband and her older son’s father—as well as “gang-related harm” that, she believed, targeted Jhonny and those close to him. But in 2016 Jhonny was shot in the head and killed. After learning of Jhonny’s death, Alfaro Bonilla supplemented her application with an affidavit detailing threats that she and her son had experienced while living with Jhonny in Honduras; she attributed most of the threats to the “MS-18 gang.” She also attested that Jhonny had been shot in 2006, that “gang members” had tried to kill him several times since then, and that Jhonny had warned her that his enemies would try to harm or kill her and their son. She stated that Jhonny was a hitman who had enemies. In a later filing, Alfaro Bonilla stated that Jhonny’s death prompted her to change her proposed social-group membership to “widow of a gang member ‘hitman’ with many enemies who will continue to seek revenge for the acts of Jhonny.”

At her hearing before an immigration judge, Alfaro Bonilla testified about the harm she encountered while living with Jhonny. She stated that since 2006, people—whom she could not identify—had tried several times to kill Jhonny. Jhonny, she reiterated, had frequently warned her that his enemies might also try to harm her and her son. She testified that in 2009 a man came toward her and her son in front of their house and pointed a gun at them; at Jhonny’s direction she took her son inside and no one was hurt. She also testified that in 2013 while she and her son were riding in a car with Jhonny, a motorcyclist cut in front of the car and threatened to kill them; after the motorcyclist “tried to pull something out,” Jhonny steered the car into him. She added that she had seen motorcyclists attack people “many times” and that hitmen in Honduras commonly used motorcycles to kill people. Later in 2013 she moved out of her home with Jhonny and lived elsewhere in Honduras with family members.

Alfaro Bonilla testified that she learned of Jhonny’s death from a friend whose relative was killed alongside Jhonny. The friend told Alfaro Bonilla that Jhonny and her

relative were both hitmen. The friend also said that two more friends of Jhonny were killed weeks later and that unidentified people went to the house Alfaro Bonilla shared with Jhonny looking for her.

Finally, Alfaro Bonilla testified to fearing that Jhonny's enemies would harm her and her son if they returned to Honduras— "[b]ecause that's what they do. They try to hurt the people that were closest to the people that hurt them." When asked to clarify who Alfaro Bonilla meant by "they," she said it "could be gangs" but she did not know. She also did not know whether Jhonny had worked for any gangs.

Alfaro Bonilla also offered the declaration and testimony of Dr. Lirio Gutierrez Rivera, an expert witness and political scientist from the National University of Colombia who studied violence and criminal punishment in Honduras. Dr. Gutierrez Rivera opined that assuming Jhonny was involved in a gang and targeted by gang members, Alfaro Bonilla would be "at risk of being harmed by criminal gangs if [she] returned to Honduras." Regardless of Jhonny's gang involvement, Dr. Gutierrez Rivera added, if a gang had threatened and killed Jhonny, then Alfaro Bonilla would still be at risk. Based on her research, it was "common" for gangs in Honduras to attack the families of their enemies. She also opined that given the prevalence of gangs in urban areas and the Honduran government's disinterest in protecting targets of gang violence, it would be "very difficult" for Alfaro Bonilla to relocate safely to an area in Honduras where she could find work.

An immigration judge denied Alfaro Bonilla's application. The judge found her generally credible but noted that her testimony on Jhonny's gang status and the gang affiliation of his attackers was inconsistent. The judge then rejected her claim of past persecution, finding that she had not suffered sufficiently significant physical harm or comparable nonphysical harm, had not established a causal link between her claim of harm and her membership in a particular social group, and had not established the Honduran government's inability or unwillingness to protect her. The judge similarly rejected Alfaro Bonilla's fear of future persecution as not being subjectively genuine (because her testimony was too vague and inconsistent) or objectively reasonable (because without knowing who her persecutors were, she could not show that they were reasonably likely to harm her). Moreover, Alfaro Bonilla had not established that there was a pattern or practice of persecution against members of her proposed social group or that she could not relocate within Honduras to avoid persecution. Even if Alfaro Bonilla had established a well-founded fear of future persecution, the judge

explained that her application would be rejected because her proposed social group was not cognizable, in part because it was neither sufficiently particular nor socially distinct.

The Board of Immigration Appeals (“BIA” or “the Board”) upheld the decision. The Board agreed with the immigration judge, first, that Alfaro Bonilla had not shown that she faced past persecution on account of a statutorily protected ground. According to the Board, the incidents to which she testified—the 2009 gunpoint episode in front of the home and the 2013 motorcycle confrontation—did not suggest that she had been subjected to physical harm or any nonphysical harm of sufficient gravity to amount to persecution. The Board also agreed with the conclusions that Alfaro Bonilla had not shown that her fear of future persecution was well-founded, that she could not reasonably relocate within Honduras, and that her proposed social group was cognizable.

II. Discussion

To be eligible for asylum, an applicant bears the burden of demonstrating that she is “unable or unwilling to return” to her country of origin “because of [past] persecution or a well-founded fear of [future] persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. §§ 1101(a)(42), 1158(a). We will reverse the BIA’s determination only if the record compels a contrary conclusion. *Meraz-Saucedo v. Rosen*, 986 F.3d 676, 684 (7th Cir. 2021). Where, as here, the BIA affirms and supplements the immigration judge’s decision, we review the underlying decision and the Board’s additional reasoning. *See Cojocari v. Sessions*, 863 F.3d 616, 621 (7th Cir. 2017).

Alfaro Bonilla devotes most of her attention to contesting the immigration agency’s alternative conclusion that her proposed social group was not sufficiently particular or socially distinct. The framework for determining whether a petitioner’s proposed social group satisfies these requirements remains an unsettled question in this circuit, *W.G.A. v. Sessions*, 900 F.3d 957, 964 (7th Cir. 2018), but we need not reach it here because Alfaro Bonilla has not met her threshold burden of showing that she suffered past persecution or that she has a well-founded fear of future persecution, *see* 8 C.F.R. § 1208.13(b).

A. Past Persecution

To establish that she experienced harm rising to the level of past persecution, Alfaro Bonilla needed to show that she was subjected to physical harm or nonphysical harm “of a gravity equivalent to *significant* physical force against [her] body.” *Escobedo Marquez v. Barr*, 965 F.3d 561, 565 (7th Cir. 2020) (internal quotation marks omitted). The immigration judge and the BIA concluded that she failed to do so. Alfaro Bonilla challenges that conclusion, arguing that it rests on a mischaracterization of her testimony concerning the 2009 incident in front of her home and disregards her testimony that the motorcyclist in 2013 said he was going to kill them. But the record supports the immigration agency’s conclusion. As the immigration judge stated, Alfaro Bonilla did not show that she was physically harmed during either incident or that these experiences caused comparable nonphysical harm. The only evidence she introduced was her own testimony, and as the Board rightly noted, her recollection of the motorcyclist incident was vague and did not show that she suffered harm rising to the level of past persecution. *Compare Cojocari*, 863 F.3d at 626–27 (remanding because disregarded evidence called the immigration judge’s conclusion into question), *with Cui v. Garland*, 71 F.4th 592, 601 (7th Cir. 2023) (denying the petition because inconsistencies in the evidence supported the immigration judge’s conclusion).

Even if Alfaro Bonilla established harm rising to the level of past persecution, she cannot prevail because she has not shown that her familial relationship to Jhonny caused her persecution. *See Meraz-Saucedo*, 986 F.3d at 685. The record does not bear out that Jhonny was targeted by gangs. For instance, though she introduced affidavits in which she identified gangs as the source of her persecution, she repeatedly testified that she did not know whether gangs were the source. And to the extent she maintains that she was persecuted by Jhonny’s unspecified enemies rather than gangs, “[t]he possibility of private violence based on personal grudges ... is not a basis for asylum.” *Duarte-Salagosa v. Holder*, 775 F.3d 841, 846 (7th Cir. 2014).

Because Alfaro Bonilla asserted that she was persecuted by private actors, she also needed to show that the Honduran government was unwilling or unable to protect her. *See Perez v. Garland*, 83 F.4th 630, 633 (7th Cir. 2023). She points only to Dr. Gutierrez Rivera’s testimony that she would not likely receive police protection if she returned to Honduras. But the immigration judge permissibly relied upon portions of the country-conditions reports suggesting otherwise, and Alfaro Bonilla does not explain how the judge erred in doing so. *See Vahora v. Holder*, 707 F.3d 904, 909 (7th Cir. 2013) (denying the petition based on the State Department’s Country Report on Human

Rights Practices reflecting that the Indian government had taken steps to punish persons responsible for violence in Gujarat in 2002). Those reports state, for example, that the Honduran government had “cooperated with the Office of the UN High Commissioner for Refugees ... and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, ... and other persons of concern.” U.S. DEP’T OF STATE, COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 2016–HONDURAS 18–19 (Mar. 3, 2017), *available at* <https://www.state.gov/wp-content/uploads/2019/01/Honduras-1.pdf>.

B. Well-Founded Fear of Future Persecution

Because Alfaro Bonilla did not establish past persecution, she is not entitled to any presumption that she would be persecuted in the future. *See Hernandez-Garcia v. Barr*, 930 F.3d 915, 920 (7th Cir. 2019); 8 C.F.R. § 1208.13(b)(1). Therefore, to show that her fear of future persecution is well-founded, she needed to show that her fear was both subjectively genuine and objectively reasonable. *See Hernandez-Garcia*, 930 F.3d at 920. An applicant’s fear is objectively reasonable if she can establish a reasonable possibility that she would be “singled out individually for persecution or that there is a pattern or practice of persecution” against her social group. *See id.*; 8 C.F.R. § 1208.13(b)(2)(i), (iii). Fear of generalized harms is not enough. *Orellana-Arias v. Sessions*, 865 F.3d 476, 488 (7th Cir. 2017).

Alfaro Bonilla generally argues that she established a well-founded fear of future persecution but does not meaningfully engage with the immigration agency’s conclusion that her fear was not subjectively genuine. She does, however, argue that the immigration judge and the Board improperly discounted Dr. Gutierrez Rivera’s testimony that gangs in Honduras have a pattern or practice of attacking family members of their enemies. But again, the record did not compel a finding that there was a pattern or practice of persecuting Jhonny’s family. Alfaro Bonilla testified inconsistently about the source of the threats against Jhonny; once she stated that he was targeted by the MS-18 gang, and at other times she testified that she did not know who was behind the threats.

Nor did Alfaro Bonilla establish that she could not reasonably relocate within Honduras to avoid future harm. *See* 8 C.F.R. § 1208.16(b)(3)(i). Dr. Gutierrez Rivera based her testimony regarding relocation on the unwarranted presumption that Jhonny belonged to a gang or had made himself an enemy of a gang. Moreover, as the Board

observed, Alfaro Bonilla has not disputed that she was unharmed and unthreatened while living with other family members in Honduras.

Finally, because Alfaro Bonilla did not establish her eligibility for asylum, she cannot satisfy the higher bar required for withholding of removal. *See Meraz-Saucedo*, 986 F.3d at 686. We have considered Alfaro Bonilla's remaining arguments, but none has merit. The petition for review is DENIED.