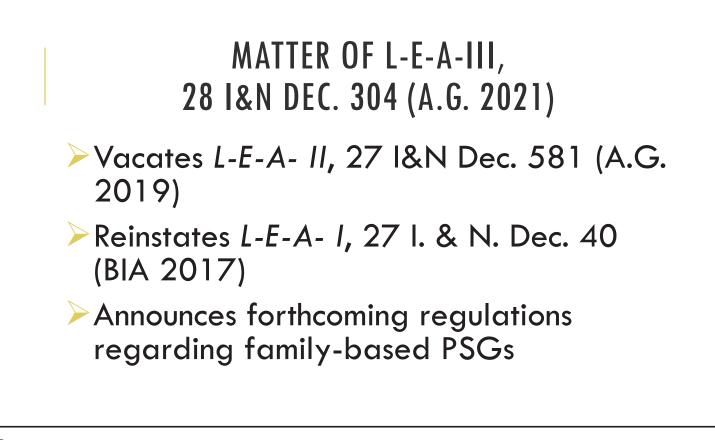
## HOT TOPICS: PROSECUTORIAL DISCRETION IS BACK

Erica Schommer St. Mary's University School of Law Immigration & Human Rights Clinic

## MATTER OF A-B- III, 28 I&N DEC. 307 (A.G. 2021) Vacates A-B- 1, 27 I&N Dec. 316 (A.G. 2018) and A-B- 11, 28 I&N Dec. 199 (A.G. 2021) Reinstates Matter of A-R-C-G-, 26 I&N Dec. 288 (BIA 2014) (granting asylum based on membership in PSG of "married women in Guatemala who are unable to leave their relationship") Commits to issuing regulations regarding dv cases

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| ≻Executive C             | Order issued by President Biden on 1/21/2021   |
|--------------------------|--|
| Acting DHS               | Secretary David Pekoske issued a memo on January 20, 2021,<br>ed a 100-day moratorium on removals - later enjoined after the<br>as and others sued |
| Tae Johnso 2/18/2021     | n, Acting Director of ICE, issued interim PD guidance on   |
| John D. Tra<br>5/27/2021 | sviña, Principal Legal Advisor, ICE, issued PD Memo on   |
| ICE directiv             | ve regarding victim-centered-approach issued on 8/10/2021  |
| DHS Secret               | tary Mayorkas issued a memo on 9/29/2021, which takes effect   |

## NEW ICE ENFORCEMENT MEMO

Johnson memo instructs that its interim priorities "shall be applied" to all civil enforcement and removal decisions including:
Whether to issue a detainer, or pick someone up on a detainer;
Whether to issue, reissue, serve, file, or cancel a Notice to Appear;
Whether to focus resources only on administrative violations or conduct;
Whether to stop, question, or arrest a noncitizen for immigration violations;
Whether to grant deferred action or parole; and
When and under what circumstances to execute final orders of removal.
Memo also states ICE has "the responsibility to ensure that eligible noncitizens are able to pursue relief from removal"

## **ICE'S NEW ENFORCEMENT PRIORITIES**

Johnson memo outlines three categories of presumed priorities:

Category 1: National Security

Category 2: Border Security

Category 3: Public Safety

Also available as part of the eCourse 2021 A Practical Guide to Immigration Removal Proceedings eConference

First appeared as part of the conference materials for the 2021 A Practical Guide to Immigration Removal Proceedings session "Hot Topics: Prosecutorial Discretion is Back!"