



Asylum, MPP, and other Border Issues

Brian Manning, Manning Asylum Law
Edna Yang, American Gateways

1



Matter of L-E-A- and Matter of A-B-

AG Decisions in June 2021 are game-changer, reversing Trump administration policies on viability of asylum claims based on domestic violence and harm suffered due to family relationships

2



Background on Matter of A-B-

- *Matter of A-B-*
 - BIA recognizes PSG as similar to one it affirmed in *Matter of A-R-C-G*
 - AG Sessions certifies case to himself and, in June 2018, issues precedential decision overruling *A-R-C-G* and vacating BIA's decision in *A-B-*
 - Says BIA didn't properly analyze the PSG at issue under existing case law
 - In dicta, says persecution by private actors generally won't lend itself to a viable asylum claim
 - Effect is to limit claims based on domestic violence



Background on Matter of L-E-A-

- *Matter of L-E-A-*
 - In 2017, BIA affirms in precedential decision that one's immediate family can be a viable PSG (but denies asylum b/c no nexus)
 - Acting AG Whitaker certifies decision to himself in December 2019, and in July 2019, AG Barr issues *Matter of L-E-A- II*
 - Overrules aspects of *L-E-A-* addressing viability of proposed PSG
 - BIA failed to perform analysis required by existing precedent
 - Dicta says "ordinary" families normally unable to meet social distinction test
 - Effect is to limit claims based on family ties



Impact of Trump admin's decisions in A-B-, L-E-A-

Immediate, and intense



Where do things stand now?

AG Garland's June 2021 decisions take us back to pre-Trump interpretation, i.e.:

- Domestic violence may work under *Matter of A-R-C-G-*
- Immediate family may work under original *L-E-A-* (i.e., *L-E-A- I*)
- But.... Garland ordered DHS/DOJ to issue joint regs more clearly defining what's necessary for a valid PSG

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