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Credibility

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When applying for relief or protection from removal, an applicant has the burden of proof. INA § 240(c)(4)(A). In all applications for relief, the Court must first make a threshold determination of an applicant's credibility. INA § 241(b)(3)(C); *Matter of O-D-*, 21 I&N Dec. 1079, 1081 (BIA 1998). Applications for relief made on or after May 11, 2005, are subject to the credibility assessment standards articulated in the REAL ID Act. *Matter of S-B-*, 24 I&N Dec. 42, 45 (BIA 2006).

In making a credibility determination, the Court considers the totality of the circumstances and all relevant factors. INA § 240(c)(4)(C); *Matter of J-Y-C-*, 24 I&N Dec. 260, 266 (BIA 2007). A credibility determination may be based on the applicant's demeanor, candor, or responsiveness, and the inherent plausibility of his account. INA § 240(c)(4)(C). An applicant's own testimony, without corroborating evidence, may be sufficient proof to support a fear-based application if that testimony is believable, consistent, and sufficiently detailed to provide a plausible and coherent account of the basis for his fear of persecution. 8 C.F.R. § 1208.13(a); *Matter of Mogharrabi*, 19 I&N Dec. 439, 445 (BIA 1987). However, "the weaker [a noncitizen's] testimony, the greater the need for corroborative evidence." *Matter of Y-B-*, 21 I&N Dec. 1136, 1139 (BIA 1998).

CASE LAW

Matter of H-C-R-C-, 28 I&N Dec. 809 (BIA 2024)

(1) Applicants bear the burden of establishing their own credibility, and no statute or legal precedent compels an Immigration Judge to conclude that an applicant's testimony is credible.

(2) Rape is sufficiently severe to constitute torture and can never be a lawful sanction under the Convention Against Torture.

Matter of B-, 21 I&N Dec. 66 (BIA 1995)

FULL DECISION

BIA Declines to Adopt Adverse Cred Finding

Under the circumstances of this case, where an asylum applicant's testimony was plausible, detailed, internally consistent, consistent with the asylum application, and unembellished during the applicant's repeated relating of events in a probing cross-examination, the Board declines to adopt the Immigration Judge's adverse credibility finding.

In Matter of B-Y-, 25 I&N Dec. 236 (BIA 2010)

([PDF](#))

(1) In making a frivolousness determination, an Immigration Judge may incorporate by reference any factual findings made in support of an adverse credibility finding, so long as the Immigration Judge makes explicit findings that the incredible aspects of the asylum application were material and were deliberately fabricated. *Matter of Y-L-*, 24 I&N Dec. 151 (BIA 2007), clarified.

(2) In considering an asylum applicant's explanations for inconsistencies or discrepancies, an Immigration Judge making a frivolousness determination must separately address the applicant's explanations in the context of how they may have a bearing on the materiality and deliberateness requirements unique to that determination.

(3) When the required frivolousness warnings have been given to an asylum applicant prior to the merits hearing, the Immigration Judge is not required to afford additional warnings or to seek further explanation in regard to inconsistencies that have become obvious during the course of the hearing.

Inconsistencies

Respondent provided inconsistent and implausible testimony regarding various aspects of his alleged harm. Additionally, when given the opportunity to explain these inconsistencies and implausible testimony, Respondent failed to provide reasonable and plausible explanations. See INA § 240(c)(4)(C); *Tewabe*, 446 F.3d at 538. Respondent also failed to provide sufficient corroborative evidence to support his claims, particularly given the numerous inconsistencies in the record. See *Matter of Y-B-*, 21 I&N Dec. at 1139. See *Kourouma v. Holder*, 588 F.3d 234 (4th. Cir. 2009) (noting that “omissions and inconsistencies which go to the heart of an asylum seeker’s claim are greater cause for concern.”).

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