

Immigration Court: BIA**Case:** *Matter of W-G-R-*, 26 I&N Dec. 208 (BIA 2014)**Date:** Feb. 7, 2014**Adjudicated by:** Grant*, Malphrus, Mullane**Tags:** Asylum, PSG, immutability, particularity, social distinction, gangs**Question Presented:** Do former Mara 18 gang members in El Salvador who have renounced their gang membership constitute a particular social group?**Holdings:** No, respondent has not established membership in a PSG; appeal dismissed.**Rationale:** “The group as defined lacks particularity because it is too diffuse, as well as being too broad and subjective.” (221)

- “The respondent also has not shown that his proposed social group meets the requirement of social distinction.” (222)
- Also has not established nexus with purported PSG, or that the government would participate in torturing him if he returned (CAT analysis).

Facts: Native & citizen of El Salvador, used to be a member of a gang. Targeted for retribution for leaving the gang. Claimed membership in PSG: “former members of the Mara 18 gang in El Salvador who have renounced their gang membership.”**History of the Case:**

- **IJ (2010):** denied application for asylum because nexus of persecution had not been established.

Appeals to Statute & Precedent:

- ***Matter of Kasinga*, 21 I&N Dec. 357, 365-66 (BIA 1996):** PSG defined as women who are opposed to FGM (not literally “visible”)
- ***Matter of Toboso-Alfonso*, 20 I&N Dec. 819, 822-23 (BIA 1990):** PSG defined as homosexuals in Cuba (not literally “visible”)
- ***Matter of Fuentes*, 19 I&N Dec. 658, 662 (BIA 1988):** PSG defined as former national police members, in certain circumstances (not literally “visible”)

Quotes:

- “The word ‘distinct’ better captures this element of the test because it includes both types of visibility: it encompasses not only whether the members of a group can be

identified by sight but also how the group is perceived or recognized by others in society.” (216 n.6)

- “Our precedents have collectively focused on the extent to which the group is understood to exist as a recognized component of the society in question.” (217)

Commentary: Companion case to *Matter of M-E-V-G* which also established that “social visibility” didn’t mean *literal* visibility but rather “social distinction.”