

Fourth Circuit Court

Case: *Salgado-Sosa v. Sessions*, 882 F.3d 451 (4th Cir. 2018)

Date: February 13, 2018

Panel: C.J. Gregory, Circuit Judges Floyd & Harris

Opinion: Harris

Tags: Immigration, asylum, PSG, family unit, MS-13 gang, nexus, stepfather's convenience store

Question(s) Presented: Is there a nexus between the persecution suffered and the particular social group of Salgado-Sosa's family?

Holdings: "The record compels the conclusion that at least one central reason for Salgado-Sosa's persecution is membership in his family, a protected social group under the [INA]." *Salgado-Sosa v. Sessions*, 882 F.3d 451, 452 (4th Cir. 2018)

Rationale: "On a proper reading of the nexus requirement and our cases applying it, that finding compels the conclusion that Salgado-Sosa's kinship ties are a central reason for the harm he fears." *Salgado-Sosa v. Sessions*, 882 F.3d 451, 462 (4th Cir. 2018)

Facts: Salgado-Sosa and family operated convenience store in Honduras. They were threatened by MS-13 members for "war tax" (protection money) and were victims of a shooting. The family members had to go into hiding, and Salgado-Sosa entered the U.S. EWI to live with an uncle in VA.

Legal History, Prior Appeals & Trial Court Input:

- IJ & BIA both ruled that the persecution was not *on account* of membership in the family, but only on account of extortion and revenge.

Appeals to Statute & Precedent:

- ***Crespin-Valladares v. Holder*, 632 F.3d 117 (4th Cir. 2011):** family membership is a prototypical example of a particular social group (at 125). Explicitly called out in *Matter of L-E-A-*.
- ***Hernandez-Avalos v. Lynch*, 784 F.3d 944, 947 (4th Cir. 2015):** gang members threatened mother after she refused to let them recruit her son. Family ties PSG.

Discussion:

- "First, the record manifestly establishes that MS-13 threatened Salgado-Sosa 'on account of' his connection to his stepfather and to his family." *Salgado-Sosa v. Sessions*, 882 F.3d 451, 461 (4th Cir. 2018)

- “However characterized, Salgado-Sosa’s relationship to his stepfather (and to his family) is indisputably ‘why [he], and not another person, was threatened’ by MS-13.” *Salgado-Sosa v. Sessions*, 882 F.3d 451, 463 (4th Cir. 2018) (quoting *Hernandez-Avalos v. Lynch* at 950).
- “Thus, the IJ and the BIA erred by focusing narrowly on the ‘immediate trigger’ for MS-13’s assaults—greed or revenge—at the expense of Salgado-Sosa’s relationship to his stepfather and family, which were the very relationships that prompted the asserted persecution.” *Salgado-Sosa v. Sessions*, 882 F.3d 451, 463 (4th Cir. 2018).
- “Third and finally, the BIA’s decision improperly focused on whether Salgado-Sosa’s *family* was persecuted on account of a protected ground, rather than on whether *Salgado-Sosa* was persecuted because of a protected ground—here, his relationship to his family. . . . [A]s we have explained before, it does not follow that if Salgado-Sosa’s family members were not targeted based on some protected ground, then Salgado-Sosa could not have been targeted based on ties to his family.” *Salgado-Sosa v. Sessions*, 882 F.3d 451, 464 (4th Cir. 2018) (emphasis in original).