

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
Arlington Immigration Court
1901 South Bell Street, Suite 200
Arlington, VA 22202**

IN THE MATTER OF:) **IN REMOVAL PROCEEDINGS**
)
) **File No.:**
)
 Respondent.)
_____)

CHARGE: Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, (“INA” or “Act”), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

APPLICATIONS: Asylum, pursuant to INA § 208; withholding of removal, pursuant to INA § 241(b)(3); and protection under the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (“CAT”), pursuant to 8 C.F.R. §§ 1208.16-.18 (2019).

APPEARANCES

ON BEHALF OF RESPONDENT:
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ON BEHALF OF THE DHS:
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DECISION AND ORDER OF THE IMMIGRATION JUDGE

I. PROCEDURAL HISTORY

The Respondent is a native and citizen of Guatemala. Ex. 1. He entered the United States on or about January 17, 2013, at or near Hidalgo, Texas. *Id.* On January 24, 2013, the Department of Homeland Security (“DHS”) personally served him with a Notice to Appear (“NTA”), charging him with inadmissibility pursuant to § 212(a)(6)(A)(i) of the Act. At a master calendar hearing on February 21, 2013, the Respondent admitted the factual allegations contained within the NTA, and conceded the charge of inadmissibility. On November 20, 2014, the Respondent filed an Application for Asylum and for Withholding of Removal (Form I-589), seeking asylum and withholding of removal under the Act and protection under the CAT. Ex. 2. The Court heard

testimony in support of his application on June 14, 2019. For the reasons discussed below, the Court grants the Respondent's application for asylum.

II. SUMMARY OF THE EVIDENCE

A. Documentary Evidence

- Exhibit 1: The Respondent's NTA, served January 24, 2013, and filed February 4, 2013;
- Exhibit 2: Motion for Change of Venue, Written Pleadings, filed April 17, 2014;
- Exhibit 3: The Respondent's Form I-589, lodged August 6, 2014, filed November 20, 2014;
- Exhibit 4: Brief in Support of Eligibility and Supporting Documents, Tabs A-E, filed May 29, 2019; and
- Exhibit 5: The Respondent's Notice of *Mendez Rojas* Class Membership, filed January 31, 2019.

B. Summary of the Respondent's Claim

On June 14, 2019, the Court heard testimony from the Respondent. The Court also accepted proffered testimony from the Respondent's grandmother, corroborating the Respondent's testimony. The testimony provided in support of the Respondent's applications, although considered by the Court in its entirety, is not fully repeated herein because it is part of the record. Rather, it is summarized below to the extent it is relevant to the Court's analysis of the Respondent's applications for relief.

1. Testimony of the Respondent

The Respondent testified he is a native and citizen of Guatemala, and he came to the United States on January 17, 2013. His grandparents raised him in Asuncion Mita Jutiapa, where he lived most of his life. Prior to coming to the United States, he was a computer systems and software engineering student at the Mariana Galvez University in Guatemala, which was one hour away from his house by bus. He also worked at an electronics company.

One Saturday in March 2012, the Respondent was leaving the university when he witnessed an illicit transaction between a police officer and a university student. He detailed that he had taken a shortcut to the bus stop when he witnessed a police officer hand a student a large bag of white powder, which he believed was cocaine. The student in turn handed the officer some money. The Respondent began running toward the bus stop when the officer and the student noticed him.

When he got home he told his grandparents what he witnessed. He also later told several people who were close to him. However, he did not file a police report because he was afraid the officer would find out and kill him and his family. He testified police officers protect one another and are not concerned with ending corruption. Instead, he avers they merely seek to hide incidents of corruption so they do not look bad.

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The following two Saturdays he again encountered the officer when he got out of class. On both occasions, the officer threatened to kill him and his family if he said anything. The second time the officer threatened him, the officer took him into his car, grabbed him, and forced him to tell him his full name.

The Respondent stated he did not feel safe after the police officer threatened him a second time, so he stopped attending university and working, and instead stayed in his house. After two months, he left the area and moved to the capital with his aunt, _____, a, and his uncle, _____. He lived with his aunt and uncle for approximately eight months before leaving for the United States.

He testified that although the officer did not go looking for him in the capital during his time there, he went looking for him at his grandparents' house. He also testified that after he moved to the capital one of his aunts, who lived in the same area as his grandparents, was murdered. There is insufficient evidence to determine who killed her, but the Respondent believes the officer who threatened him killed her when he did not find him. He does not believe he can be safe in any part of the country because the officer would find him right away.

2. Proffered Testimony of

_____ is the Respondent's grandmother. The Respondent told her and her husband that he witnessed a drug sale between a police officer and a university student. She corroborates that the police officer went to her house looking for the Respondent. She also corroborates that the Respondent's aunt was killed, but she does not have any information about why she was killed, or who is responsible for her death.

III. LAW, ANALYSIS, AND FINDINGS

A. Credibility and Corroboration

When an applicant offers testimonial evidence to support an application for relief, the Court must determine whether such testimony is credible. *See* INA § 240(c)(4)(B). The REAL ID Act of 2005 governs the credibility analysis for cases in which the applicant filed for relief on or after May 11, 2005. In making a credibility determination, the Court considers the totality of the circumstances and all relevant factors, like the witness' demeanor, candor, or responsiveness, and the inherent plausibility of her account. *See id.* § 240(c)(4)(C); *Matter of J-Y-C-*, 24 I&N Dec. 260, 262 (BIA 2007). Generally, to be credible, testimony should satisfactorily explain any material discrepancies or omissions. INA § 240(c)(4)(C).

An applicant's own testimony, without corroborating evidence, may be sufficient proof to support an application for asylum if that testimony is believable, consistent, and sufficiently detailed to provide a plausible and coherent account of the basis for his or her fear of persecution. *Matter of Mogharrabi*, 19 I&N Dec. 439, 445 (BIA 1987); 8 C.F.R. § 1208.13(a). Where it is reasonable to expect corroborating evidence for certain alleged facts, an applicant "bears the burden to provide reasonably available supporting evidence for material facts that are central to his claim," and the absence of "corroborating evidence [can] lead to a finding that an applicant did

not meet his burden of proof.” *Matter of L-A-C-*, 26 I&N Dec. 516, 519 (BIA 2015) (citing *Matter of S-M-J-*, 21 I&N Dec. 722, 725–26 (BIA 1997)).

Considering the totality of the circumstances and all relevant factors, the Court finds the Respondent testified credibly. His testimony was internally consistent and generally consistent with the testimonial and documentary evidence in the record. *See* Ex. 4, Tabs B, D at 5-10, 24-60. In addition, he testified candidly and plausibly. Thus, the Court finds the Respondent credible.

The Court also credits the proffered testimony of Odilia Hernandez Giron de Guerra.

B. Asylum¹

An applicant for asylum must demonstrate he is a “refugee” within the meaning of INA § 101(a)(42). *See* INA § 208(a). To satisfy the “refugee” definition, the applicant must demonstrate a reasonable probability either that he suffered past persecution or that he has a well-founded fear of future persecution in his country of origin on account of one of the five statutory grounds: race, religion, nationality, membership in a particular social group, or political opinion. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987); 8 C.F.R. § 1208.13(a). The applicant must show that he fears persecution by the government or an agent that the government is unwilling or unable to control. *See Matter of S-A-*, 22 I&N Dec. 1328, 1335 (BIA 2000). The applicant also must demonstrate that one of the five statutory asylum grounds was or will be at least one central reason for his persecution. INA § 208(b)(1)(B)(i). Finally, in addition to establishing statutory eligibility, the applicant must demonstrate that a grant of asylum is warranted in the exercise of discretion. INA § 208(b)(1)(A); 8 C.F.R. § 1208.14(a).

1. Past Persecution

a. Harm Rising to the Level of Persecution

To establish a claim based on past persecution, an applicant must demonstrate he suffered harm rising to the level of persecution. *See Li v. Gonzales*, 405 F.3d 171, 176–77 (4th Cir. 2005). Persecution is an extreme concept that “does not encompass all treatment that our society regards as unfair, unjust, or even unlawful or unconstitutional.” *Fatin v. INS*, 12 F.3d 1233, 1240 (3d Cir. 1993). Persecution has generally been interpreted to include threats to life or freedom, confinement, torture, and economic restrictions so severe that they constitute a threat to life or freedom. *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985); *see also Hernandez-Avalos v. Lynch*, 784 F.3d 944, 949 (4th Cir. 2015) (“[W]e have expressly held that ‘the threat of death qualifies as persecution.’”); *but see Cortez-Mendez v. Whitaker*, 912 F.3d 205, 209 n.* (4th Cir. 2019) (a death threat may not always rise to the level of persecution if it is too “distant,” “unspecific,” or remote in time and place).

¹ Although the Respondent did not file his asylum application within one year of his arrival, the Court finds he is not barred from seeking asylum by the firm resettlement bar because he is a *Mendez Rojas* class action member. *See* Ex. 5 (citing *Mendez Rojas v. Johnson*, 2018 WL 1532715 (W.D. Wash. Mar. 29, 2018)). More specifically, the Respondent was in DHS custody on the day of his arrival, he expressed his intention to apply for asylum, and he was subsequently released without having been given notice of the one-year asylum application deadline. *See* Ex. 1, Notice of Custody Determination (Form I-286) (showing the Respondent was in DHS custody on the day of his arrival); *see also* DAR (Feb. 21, 2013); *see also* DAR (Mar. 7, 2013).

[REDACTED]

In the present case, the Court finds the Respondent experienced harm rising to the level of persecution. Here, a police officer threatened the Respondent with death on two occasions. During the second incident, the police officer took the Respondent into his car, grabbed him, threatened to kill him and his family, and asked him for his full name. The police officer had access to the Respondent and the imminent ability to carry out the threat. The imminent and severe nature of the threats are further evidenced by the fact that following the second death threat, the Respondent went into hiding out of fear that the officer would fulfill his threats. Because the officer's death threats against the Respondent were severe and immediate, the Court concludes they rise to the level of persecution. *See Zavaleta-Policiano v. Sessions*, 873 F.3d 241, 247 (4th Cir. 2017).

b. On Account of a Protected Ground

An asylum applicant must demonstrate that a protected ground was "at least one central reason" for the persecution he suffered or fears he would suffer. INA § 208(b)(1)(B)(i); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 212-14 (BIA 2007). "The applicant need not prove that the protected ground was *the* central reason or even a dominant central reason for the persecution; [t]he need only show that the protected ground was more than an incidental, tangential, superficial, or subordinate reason underlying the persecution." *Zavaleta-Policiano*, 873 F.3d at 247 (quoting *Quinteros-Mendoza v. Holder*, 556 F.3d 159, 164 (4th Cir. 2009) (internal quotation marks omitted) (emphasis in original)). In conducting a nexus analysis, a court must consider not only the "'articulated purpose'" of a persecutor's threats, but also the "'intertwined reasons'" for those threats. *Id.* at 248 (quoting *Cruz v. Sessions*, 853 F.3d 122, 129 (4th Cir. 2017)).

In the present case, the Respondent argues that the police officer who threatened him with death on two occasions did so on account of his membership in the proposed social group of "witnesses to a crime perpetrated by a corrupt police officer in Guatemala," as well as his imputed whistleblower (anti-corruption) political opinion. For the reasons discussed below, the Court finds the Respondent has established that the harm he suffered was on account of his imputed political opinion.

i. Witnesses to a crime perpetrated by a corrupt police officer in Guatemala

An applicant for asylum alleging persecution on account of membership in a particular social group must first show he is a member of a cognizable "particular social group" within the meaning of the Act. *See* INA § 101(a)(42)(A). A cognizable particular social group must be: (1) composed of members who share a common immutable characteristic; (2) defined with particularity; and (3) socially distinct within the society in question. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 237 (BIA 2014); *Temu v. Holder*, 740 F.3d 887, 892 (4th Cir. 2014). A characteristic is immutable if, "the members of the group either cannot change [it], or should not be required to change [it] because it is fundamental to their individual identities or consciences." *See M-E-V-G-*, 26 I&N Dec. at 231 (quoting *Acosta*, 19 I&N Dec. at 233). Shared past experiences may meet the immutability requirement. *See Acosta*, 19 I&N Dec. at 233; *see also M-E-V-G-*, 26 I&N Dec. at 251. The particularity of the proposed social group concerns the boundaries of the group. *See M-E-V-G-*, 26 I&N Dec. at 238; *see also Matter of W-G-R-*, 26 I&N Dec. 208, 214, 216-17 (BIA 2014). In this regard, the group "must [] be discrete and have definable boundaries—it must not be amorphous, overbroad, diffuse, or subjective." *W-G-R-*, 26 I&N Dec. at 214. Meanwhile, the

social distinction requirement demands that the members of the proposed social group be significantly set apart from others within the community in question, that is, "there must be evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group." *Id.* at 217. Nonetheless, it is not necessary that society be able to easily identify the members of the group. *Id.*

In the present case, the Court finds the Respondent's proposed particular social group of "witnesses to a crime perpetrated by a corrupt police officer in Guatemala" is not cognizable under the Act. The Court acknowledges that the proposed group is immutable because having witnessed a crime perpetrated by a police officer is a past experience that cannot be undone. *See Matter of C-A-*, 23 I&N Dec. 951, 958 (BIA 2006), *clarified by W-G-R-*, 26 I&N Dec. 208. Secondly, the Court finds the Respondent's proposed group is sufficiently particular as it is limited to persons who have personally witnessed crimes that were specifically perpetrated by police officers in Guatemala. *See Temu*, 740 F.3d at 895-96 (noting that groups with a sufficient degree of particularity include "family members of those who actively oppose gangs in El Salvador by agreeing to be prosecutorial witnesses."). The Court notes that while a group comprised of witnesses to crime might lack particular boundaries, and thus fall short of meeting the particularity requirement, the Respondent's proposed group is narrower. *See id.* at 896 ("[A group of] '[p]rosecutorial witnesses' might reach too broad a swath of individuals[.]").

The Respondent's proposed group, however, fails to meet the social distinction requirement. The evidence of record shows that Guatemalan society perceives *all* witnesses of crime as being part of a broad group. *See Ex. 4, Tab C* at 24 (stating that as of 2012, the Guatemalan government continued to be unable to protect witnesses from intimidation).² Moreover, there is insufficient evidence that Guatemalan society perceives "witnesses to a crime perpetrated by a corrupt police officer in Guatemala" as being part of a group that is significantly different from the broader group of "witnesses." *See Miranda v. Sessions*, 892 F.3d 940, 943 (8th Cir. 2018) ("the record does not support the conclusion that witnessing a gang murder placed Miranda in a socially distinct group, particularly since he did not testify against any gang member"). Accordingly, the Court finds the Respondent has not established that his proposed social group is socially distinct within Guatemalan society, and he therefore has not established that the group is cognizable under the Act.

ii. Imputed whistleblower (anti-corruption) political opinion

An applicant may show that he was persecuted on account of his actual or imputed political opinion. *See Matter of N-M-*, 25 I&N Dec. 526 (BIA 2011); *see also Alvarez Lagos v. Barr*, 927 F.3d 236 (4th Cir. 2019). Imputed political opinion claims are "examined from the perspective of

² The Respondent, through counsel, references Decreto No. 21-2006 and Acuerdo No. 2-2007 of the Public Prosecutor's Office, "concerning the identity changes and relocation of witnesses and collaborators in criminal proceedings" as support for his proposed group's social distinction. *See Ex. 4, Res'p's Brief* at 11. The Respondent's submission does not contain a copy of this document, nor is it mentioned in the record. Nonetheless, based on the Respondent's description of this document, it appears that these laws tend to show that Guatemalan society perceives persons who participate in criminal proceedings as a group. This group of persons is different from the Respondent's proposed social group of "witnesses to a crime perpetrated by a corrupt police officer in Guatemala," and thus, the witness protection laws are of limited evidentiary value to the Respondent's claim. ³ The signing immigration judge was transferred this matter for resolution. Pursuant to 8 C.F.R. § 1240.1(b), the signing Immigration Judge has familiarized himself with the record.

[REDACTED]

the persecutor, not the victim, with the applicant required to show that [his] ‘persecutors actually imputed a political opinion’ to [him.]” *Id.* (citing *Abdel-Rahman v. Gonzales*, 493 F.3d 444, 450-51 (4th Cir. 2007)). The applicant must also demonstrate that the imputed political opinion was *at least* one central reason for persecution. *Id.* at 250. Persecution resulting from actual or perceived opposition to state corruption and other whistleblowing conduct may form the basis for an imputed political opinion asylum claim. *See N-M-*, 25 I&N Dec. 526. Factors indicating that the persecutor imputed an anti-corruption political opinion to the applicant, include: (1) whether and to what extent the applicant engaged in activities that could be perceived as expressions of anti-corruption beliefs; (2) any direct or circumstantial evidence that the alleged persecutor was motivated by the applicant’s perceived or actual anti-corruption beliefs; and (3) evidence regarding the pervasiveness of government corruption, as well as whether there are direct ties between the corrupt elements and higher level officials. *Id.* at 532-33.

In the present case, the Respondent witnessed a drug sale involving a police officer and a university student. Realizing the Respondent witnessed the transaction, the officer subsequently threatened to kill the Respondent and his family on two occasions if he told anyone what he had seen. At the time, the Respondent did not do or say anything that could have been perceived as a refusal to comply with the officer’s demands. Nevertheless, the Respondent testified that he in fact told his grandparents and several close acquaintances what he witnessed. There is also compelling circumstantial evidence that the officer suspected the Respondent spoke to someone about what he had seen.

The Respondent testified that after witnessing the illicit transaction, he continued attending university and work, and that he did not stop until the officer threatened him a second time. The Respondent stopped attending classes even though the semester had not yet concluded. He went into hiding and shortly thereafter left the area. During this time, the officer went looking for him at his grandparents’ house, but he did not find him. After that, one of his aunts, who lived near his grandparents, was killed.

The Respondent also testified the police officer did not fear being found out by other officers because corruption within the police force was pervasive. He explained that officers protected one another, and the only reason the officer did not want to be exposed was because it would make the police “look bad.” The Respondent’s account of events is consistent with the record of evidence, which shows that in 2011, corruption in Guatemala was widespread at all levels of government. *See Ex. 4, Tab D, at 24-31.* According to the Department of State Guatemala 2012 Human Rights Report, one of the principal human rights issues in Guatemala was “widespread institutional corruption” including police involvement in serious crimes such as drug trafficking. *Id.* at 24. Government corruption was facilitated by inadequate political will and widespread impunity. *Id.* at 30. While the government took steps to prosecute officials, police impunity for criminal activities remained a serious problem. *Id.* at 24, 26-27, 30. Moreover, there was no improvement in the prosecution of corruption cases, even as the government reported a significant drop in impunity involving homicide cases. *Id.* at 30.

Taking all the evidence into consideration, the Court finds the Respondent has demonstrated the police officer threatened him with death because he suspected he would, and did, disclose that the officer was engaged in the sale of drugs—a disclosure that the officer suspected was political in nature. The Court finds it significant that the officer did not know of any reason the Respondent would disclose the illicit transaction at great risk to his family and himself, as he

[REDACTED]

was merely an innocent university student. Additionally, the Respondent did not seek to gain anything from disclosing what he witnessed—e.g., not being forced to engage in unlawful acts or not being forced to part with his money or other valuables. See *N-M-*, 25 I&N Dec. at 528 n.1, 529 (noting that cases in which the applicant merely demonstrates “resistance to pressure to engage in certain acts and consequent retaliation for this resistance” do not establish the requisite nexus.) (citing *INS v. Elias-Zacarias*, 502 U.S. 478, 482 (1992)). Nevertheless, the officer threatened the Respondent with death on two occasions and went looking for him at his house a third time to prevent, what he apparently believed to be, an inevitable disclosure. The officer’s persistence in threatening the Respondent shows he suspected that he held anti-corruption beliefs that would compel him to disclose what he witnessed regardless of the consequences. Given the political context, the overwhelming evidence of government corruption, and the compelling circumstantial evidence in this case, the Court further finds that the Respondent’s imputed political opinion was an inextricably intertwined reason for the harm he suffered at the hands of the police officer. See *Cruz*, 853 F.3d at 129 (clarifying that to properly apply the nexus statutory standard, the Immigration Judge must consider intertwined reasons for harm); see also *Zavaleta-Policiano*, 873 F.3d at 248. As such, the Court finds that the Respondent has established, through his credible testimony and the evidence of record, that the officer threatened him with death because of his imputed political opinion.

c. Source or Agent of Persecution

An applicant must show he fears persecution by the government or an agent the government is unwilling or unable to control. See *Hernandez-Avalos*, 784 F.3d at 950-54; see also *S-A-*, 22 I&N Dec. at 1335. If the alleged persecutor is someone unaffiliated with the government, the applicant must show that flight from his country is necessary because his home government is unwilling or unable to protect him. See *Matter of A-B-*, 27 I&N Dec. 316, 317 (A.G. 2018).

In the present case, the Respondent testified the harm he suffered was at the hands of a government agent, a corrupt police officer. He also credibly testified that he did not report the officer to the authorities because he feared the officer would find out and kill him. He stated that corruption was pervasive within the police force, and that officers protected one another. The Respondent’s testimony is supported by the evidence of record, which shows that at the time of the Respondent’s persecution, there was widespread corruption at all levels of government in Guatemala. See Ex. 4, Tab D at 24-31. Thus, the Court finds the Respondent met his burden of demonstrating that the officer was an agent of the Guatemalan government. See *Castro v. Holder*, 597 F.3d 93, 104-05 (2d Cir. 2010) (“In light of the evidence detailing the widespread problems with corruption plaguing Guatemala” a finding that the government persecutors “were merely ‘rogue’ police officers cannot stand.”). The Court therefore concludes the Respondent suffered past persecution.

2. Well-Founded Fear of Future Persecution

Because the Respondent has established that he suffered past persecution, he is entitled to a rebuttable presumption of a well-founded fear of future persecution in Guatemala. 8 C.F.R. § 1208.13(b)(1). To rebut the presumption of a well-founded fear of persecution, DHS bears the burden of establishing that: (1) there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution; or (2) the applicant could avoid

future persecution by relocating to another part of the applicant's country. See 8 C.F.R. § 1208.13 (b)(1)(i)-(ii).

To establish the possibility of internal relocation, DHS must show there is a "specific area of the country" where the applicant does not have a well-founded fear of persecution." See *Matter of M-Z-M-R-*, 26 I&N Dec. 28, 34 (BIA 2012). Additionally, DHS must also show by a preponderance of the evidence that under the circumstances it would be reasonable to expect the applicant to relocate. 8 C.F.R. § 1208.13(b)(1)(i)(B); see also 8 C.F.R. § 1208.13(b)(3)(ii) (where past persecution is established, internal relocation is presumptively unreasonable). In assessing the reasonability of internal relocation the Court should consider, but is not limited to considering, whether an applicant would face harm from "any ongoing civil strife within the country; administrative, economic, or judicial infrastructure; geographical limitations; and social and cultural constraints." *M-Z-M-R-*, 26 I&N Dec. at 34-35.

In the case at hand, DHS did not present sufficient evidence that there has been a fundamental change in circumstances in Guatemala, such that the Respondent no longer has a well-founded fear of persecution. Nor has DHS established by a preponderance of the evidence that there is a specific area in Guatemala where the Respondent does not have a well-founded fear of persecution. Here, although the Respondent testified that he had lived in the capital with his aunt and uncle for around eight months and did not suffer any additional harm while there, he also testified that the police officer had been looking for him during that time. He stated that regardless of where he went in Guatemala the police officer could find him. Additionally, the Respondent also testified that corrupt police officers worked together, and that the officer who threatened to kill him and his family had forced him to tell him his full name. Thus, the Court is not persuaded that if the Respondent relocated to the capital, he would not have a well-founded fear of future persecution there. See *Perez-Morales v. Barr*, No. 18-1617, -- F.App'x --, 2019 WL 3408808 (4th Cir. July 29, 2019) (unpublished) (remanding where DHS did not present any evidence to rebut the applicant's testimony, and the IJ assumed that the cartel members were "restricted to a small part of the country."). As such, the Court finds DHS has not rebutted the Respondent's presumption of a well-founded fear of future persecution. Therefore, the Court concludes he is eligible for asylum under section 208 of the Act, and grants his application for asylum as a matter of discretion.

IV. CONCLUSION

The Respondent has established eligibility for asylum under section 208 of the Act. The Court therefore grants his application for asylum under section 208 of the Act, as a matter of discretion. Because the Court has granted the Respondent's application for asylum, it does not reach his applications for withholding of removal under section 241(b)(3) of the Act, or for protection under the Convention Against Torture.

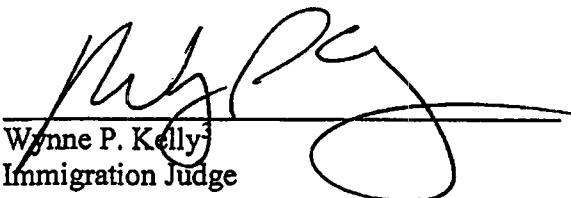
Accordingly, the Court enters the following order.

ORDER

It is Ordered that:

The Respondent's application for asylum pursuant to section 208 of the Act be **GRANTED**.

10/31/19
Date


Wynne P. Kelly
Immigration Judge

APPEAL RIGHTS: Both parties have the right to appeal the decision in this case. Any notice of appeal must be received at the Board of Immigration Appeals within thirty (30) calendar days after the date of service of this decision.

³ The signing immigration judge was transferred this matter for resolution. Pursuant to 8 C.F.R. § 1240.1(b), the signing Immigration Judge has familiarized himself with the record.