

Eighth Circuit Court

Case: *Rosales-Reyes v. Garland*, No. 20-2417 (8th Circuit, August 4, 2021)

Date: August 4, 2021

Panel: Gruender, Benton, Shepherd

Opinion: Shepherd

Tags: Immigration, asylum, PSG, Mexico,

Question(s) Presented: Is the PSG “Mexican mothers who refuse to work for the cartel” a cognizable PSG?

Holdings: PSG is not particular or distinct and therefore is not cognizable.

Rationale: “the evidence demonstrated that the Cartel victimizes *any* person who opposes it and not that the Cartel specifically targets Mexican mothers who oppose it.”⁶ (restating the IJ’s and BIA’s conclusion)

Facts: (3-4) Mexican citizen kidnapped by drug cartel while walking to the store with her one-year-old son. Released after 24 hours, given drugs to sell for the cartel. Discarded these and traveled with children straight to the U.S. border. Parents also moved away from the neighborhood, but uncle moved into her old house and was killed there.

Procedural History:

- **IJ:** denied petitions: no cognizable social group or political opinion; “although the Cartel wields significant power in Mexico, the Mexican government does not consent or acquiesce to and is not willfully blind to the Cartel’s violence.” ⁴
- **BIA:** Affirmed.

Appeals to Statute & Precedent:

- *Fuentes v. Barr*, 969 F.3d 865 (8th Cir. 2020) (per curiam): Criteria for PSG in 8th Circuit.
- *De Guevara v. Barr*, 919 F.3d 538 (8th Cir. 2019): PSG, deference to BIA’s reasonable interpretation. No circularity in PSG definition.
- *Cano v. Barr*, 956 F.3d 1034 (8th Cir. 2020): evidence of isolated violence against a family member not sufficient for “persecution” under asylum law, because it’s not really a pattern.

Discussion:

- “Although the record makes clear that the Cartel seized an opportunity to recruit a Mexican mother, who was vulnerable while walking alone with her one-year-old son, to distribute drugs for it, the record also shows that the Cartel indiscriminately victimizes anyone capable of furthering its operations.” ⁶
- “Perhaps the only commonality shared by Mexican mothers who refuse the Cartel’s demands is that those mothers will face violence for their opposition. However, this is insufficient to meet the statutorily enumerated ground.” ⁷
- “...Petitioner can safely relocate, joining her parents in a Mexican state free from the Cartel’s control.”