

Immigration Court: BIA**Case:** *Matter of A-E-V-M-*, 30 I&N Dec. 20 (BIA 2026)**Date:** September 4, 2026**Adjudicated by:** Malphrus, Hunsucker, White**Opinion:** Malphrus**Tags:** Asylum, Venezuela, persecution, changed country conditions, Maduro abduction

Question Presented: Did the removal of President Maduro from power in VZ by the Trump regime change the country conditions such that fear of future persecution is no longer objectively reasonable?

Holdings: “The removal of former President Maduro from power and the ensuing transfer of executive authority constitute a change in country conditions in Venezuela for purposes of assessing an applicant’s prospective fear of persecution.” 20

- Case remanded for IJ to consider the impact of the removal of Maduro on this R’s future risk of persecution. (Parties can beef up the record prior to a new decision.)

Rationale:

- “In particular, the [IJ] did not sufficiently address whether the individuals or institutions the respondent fears remain as before and are able and interested in targeting her in the current political environment.” 25

Facts: (20-21) Venezuela. Political opinion—members of pro-democratic political groups, opposition political activities. “[A]fter she came to the United States, Venezuelan authorities annulled her passport and . . . she continued to express strong opposition to the Maduro government and welcomed his removal from power through social media.” 21

Procedural History:

- **July 27, 2014:** Respondent admitted as a student
- **2015:** Respondent’s spouse filed timely I589 affirmatively (R as derivative).
- **March 28, 2023:** NTA issued for overstay of nonimmigrant visa
- **March 19, 2026:** R filed her own I589.
- **April 22, 2026:** IJ grants asylum based on well-founded fear of future persecution.

Appeals to Statute & Precedent:

- **INA § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42)(A) (2024):** definition of refugee.
- **8 C.F.R. § 1208.13(b)(2) (2026):** An alien who has not established past persecution may qualify for asylum by demonstrating a well-founded fear of future persecution on account of a statutorily protected ground.
- **8 C.F.R. § 1003.1(d)(3)(iv) (2026):** BIA can take administrative notice of commonly known facts, including current events and contents of official documents

- ***Matter of Mogharrabi*, 19 I&N Dec. 439, 445 (BIA 1987):** “an applicant for asylum has established a well-founded fear if he shows that a reasonable person in his circumstances would fear persecution.”
- ***Matter of E-P-*, 21 I&N Dec. 860, 862 (BIA 1997):** “the change in government and increasing stability [subsequent to the alien’s departure] militates against a finding that the applicant has a well-founded fear of persecution”
- ***Matter of A-E-M-*, 21 I&N Dec. 1157, 1160-61 (BIA 1998):** influence of Shining Path guerillas had diminished in Peru so there was no longer a nationwide reason for fear.
- ***Matter of R-R-*, 20 I&N Dec. 547, 551 (BIA 1992):** Sandinista Party no longer controlled the Nicaraguan government
- ***Matter of N-M-A-*, 22 I&N Dec. 312, 320-21 (BIA 1998) (en banc):** “recognizing that the removal of a prior regime does not necessarily eliminate a well-founded fear where the former persecutor retains influence or the successor harbors the same animus.” (A-E-V-M- at 23)
- ***Matter of S-H-*, 23 I&N Dec. 462, 465-66 (BIA 2002):** IJs need to make comprehensive findings of fact on all issues.
- ***Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994):** IJS must articulate reasons for their decisions.

Relevant U.S. History:

- **January 3, 2026:** Nicolas Maduro is removed from power in Venezuela by Trump regime “and is now in custody in the US based on criminal charges.” 22-23
 - “[E]xecutive authority in Venezuela passed to another official who now leads the Interim Government.” 22-23
- **March 30, 2026:** Full diplomatic relations restored.
- **August 31, 2026:** Historic Oil Agreement announcement by Trump admin

Respondent’s Arguments:

- Respondent “argues that his arrest and removal do not constitute changed country conditions because the ‘structural, state-sponsored apparatus of persecution and torture in Venezuela remains fully intact’ and the military, intelligence, and paramilitary networks that existed under Maduro remain under the control of longstanding Maduro loyalists.” 23
 - IJ agreed that the “Maduro regime has not disappeared.” 23

Discussion:

- “[C]onditions existing at the time an alien departed his or her country are not considered in isolation; material developments that subsequently occur may impact whether the alien’s fear is well-founded.” 22
- “We have long recognized that changed conditions in an alien’s country may be significant to determining whether a fear of future persecution remains objectively reasonable.” 22
- “Changes in the political control or leadership of a country are among the developments that may directly bear on whether the alien’s fear is well-founded.” 22

- “[W]here the asserted fear of persecution arises from opposition to the government headed by that individual, the removal of the national leader from power and the transfer of executive authority alter the political circumstances against which the asserted fear must be evaluated.” 23
 - IOW, obviously, there are changed circumstances in VZ’s leadership which must be taken into account when evaluating an asylum claim.
 - “The removal of the head of a national government is a very significant development and not merely another even occurring against an otherwise static political background.” 23
- “Another aspect of changed conditions here is the influence of the US Government on the Interim Government in Venezuela.” 23
 - Full diplomatic relations restored 24
 - “We take administrative notice that, subsequent to the [IJ]’s decision, there is further evidence of continued cooperation and progress toward reform based on the [US]’s three-part plan to promote stabilization, economic recovery, and democratic transition in Venezuela.” 24 (citing fact sheet about oil deals, dated 8/31/2026)
 - State Department has issued statements about “productive discussions” 24

Commentary:

- Although the IJ did acknowledge the regime change in VZ, he apparently did not evaluate its impact sufficiently enough for the BIA. (“The statements that the ‘essence of the Maduro government remains’ and that the ‘Maduro regime has not disappeared’ are largely conclusory and devoid of factual findings.” 24)
 - For example: Do the previously oppressive laws continue to be enforced? 25
- The Board does not rule out the possibility of the continuation of an oppressive regime in VZ; it’s just demanding more analysis of the effects of the decapitation of the leadership (and putting its thumb on the scales by taking administrative notice of all the nice things the Trump admin is saying about Delcy).
- **Administrative policy detail:** apparently, it is not a given that the respondent’s inclusion as a derivative on her husband’s timely affirmative I589 preserved her own timeliness as an asylum applicant once she was placed in proceedings. (See dates above under Procedural History.) The BIA wants the IJ to address this issue as well on remand.