

Immigration Court: BIA

Case: *Matter of L-L-R-*, 29 I&N Dec. 799 (BIA 2026)

Date: July 31, 2026

Adjudicated by: Hunsucker, Gemoets, Terrien

Opinion: Gemoets

Tags: Cancellation of removal, alien smuggling, good moral character bar

Question Presented:

- Did the respondent trigger the GMC bar for alien smuggling when he paid for a coyote to transport his minor son to the U.S. border?

Holdings: Yes, the GMC bar for alien smuggling was triggered in this case; appeal dismissed.

Rationale: The respondent knowingly invested in a smuggling operation on behalf of his son and knew that his son did not have documentation to enter the U.S. legally. 803

Facts: 799-800. Guatemala. Respondent “hired and paid a smuggler to bring the respondent’s 14-year-old son from Guatemala to the U.S.” in 2021.

Procedural History:

- 6/30/2025 - IJ pretermitted 42B because of GMC bar re. alien smuggling.

Appeals to Statute & Precedent:

- INA § 240A(b)(1) / 8 U.S.C. § 1229b(b)(1): Cancellation of removal statute.
 - INA § 240A(b)(1)(B) / 8 U.S.C. § 1229b(b)(1)(B): good moral character required for 10 years before date of final adjudication.
- INA § 101(f)(3), 240(c)(4)(A) / 8 U.S.C. § 1101(f)(3), 1229a(c)(4)(A): assisting and aiding in alien smuggling.
- INA § 212(a)(6)(E)(i) / 8 U.S.C. § 1182(a)(6)(E)(i): “Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.”
- INA § 212(d)(11) / 8 U.S.C. § 1182(d)(11): waiver for alien smuggling ground of inadmissibility
- 8 U.S.C. §1325(a)(1): alien who enters or attempts to enter US at improper time or place commits a misdemeanor
- 8 U.S.C. §1326(a)(2)(B): alien who enters or attempts to enter US after a removal commits a felony
- 8 U.S.C. §1357(a)(2): Immigration officers may arrest aliens entering or attempting to enter the US unlawfully

- ***Matter of Ortega-Cabrera*, 23 I&N Dec. 793, 797-98 (BIA 2005):** The 10-year period is counted backward from the date of final adjudication of the application.
- ***Matter of Castillo-Perez*, 27 I&N Dec. 664, 666 (A.G. 2019):** defining good moral character
- ***Mullin v. Al Otro Lado*, 146 S. Ct. 2079, 2087 (2026):** Deals with asylum applicants & legal entry: defining “admission” as term of art in INA that means the lawful entry of an alien into the US after inspection and authorization by an immigration officer. (“Accordingly being an applicant for asylum is not a manner of legal entry, but rather a status in which one seeks subsequent lawful status if approved.” L-L-R- at 801)

Discussion:

- Respondent argues that “he paid the smuggler only to bring his son to the border, but not to have him enter unlawfully or evade inspection.” 800 (child presented himself at POE and applied for asylum.)
- “The respondent presents no evidence that supports the plausibility of this proposition nor legal authority to support it even if it were plausible.” 800
- Simply asking to apply for asylum, or even getting a CFI, doesn’t mean a person was “inspected and admitted.” “Accordingly, being an applicant for asylum is not a manner of legal entry, but rather a status in which one seeks subsequent lawful status if approved.” 801
- Even though respondent says he didn’t intend to help child enter illegally, he paid for the smuggler and he knew that his child didn’t have the proper entry docs. 801
 - Some things that he could have done to show that the smuggling was not INTO the U.S.:
 - Child possessing documentation that would permit lawful entry
 - If R knew that child knew how to enter the U.S. lawfully
 - If R made arrangements for lawful entry
 - If R made arrangements for minor child to remain at the border & not cross it 801
- “Accordingly, the record contains insufficient evidence to establish that the respondent did not participate in or assist in the unlawful entry of his child to the United States.” 801
- *Mullin v. Al Otro Lado* – “answering the question of whether an alien who seeks to enter the US from Mexico ‘arrives in the US’ when he or she is still at the border in Mexico.” 801-802

- “enters” / “attempts to enter” – e.g. §1325(a)(1); §1326(a)(2)(B); §1357(a)(2)
 - “The IJ’s determination that the respondent and his wife arranged for their son to come to the US is not clearly erroneous. Inadmissibility for alien smuggling does not require the smuggled alien’s physical presence in the US and may be established by encouraging or assisting an alien ‘to try to enter’ the US in violation of law regardless of whether the entry is achieved. INA §212(a)(6)(E)(i), 8 U.S.C. § 1182(a)(6)(E)(i).” 802
- “The respondent’s acknowledgement that his minor son would be taken to the U.S.- Mexico border through a smuggling arrangement demonstrates, at minimum, a reasonable expectation that his son would be taken to this location for subsequent entry into or attempt to enter the US.” 802
- “The statutory bar to a good moral character showing and its application to eligibility for cancellation of removal are rooted in the inherent dangerousness of human smuggling operations, particularly for unaccompanied alien children.” 803

Commentary:

- This seems a comprehensive take on the definition of alien smuggling—the parent was remote and not physically involved in the smuggling, but he arranged and paid for his son’s journey & so has the requisite *mens rea* of “knowing”; nor can he excuse his involvement by saying that the smuggling ended *at* the border and he didn’t actually get his son *into* the U.S., because the INA elsewhere contemplates the crime of “attempting to enter” as well as “entering,” and he admitted that he engaged in these actions intending for his son to join him in the U.S.
- The only thing that might save a 42B with these facts would be distance in time—if the smuggling occurred more than 10 years ago, it will not affect GMC (though it may injure the respondent re. discretion).