YOUSA
Law Firm

Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

RE: NOTICE OF APPEAL FROM A DECISION OF AN IMMIGRATION JUDGE (FORM EOIR-26)

Respondent: Sandra Valdeci Nascimento Barbosa

A-Number: 245-919-694

Dear Sir or Madam,

Enclosed please find a completed Notice of Appeal from a Decision of an Immigration Judge - Form EOIR-26, along with the following:

1. Filing Fee Receipt for Form EOIR-26
2. Form EOIR-27, Notice of Entry of Appearance as Attorney Before the Board of Immigration Appeals;
3. Copy of Immigration Judge Decision dated February 26, 2026.

A copy of this filing has been served upon the Office of the Principal Legal Advisor, DHS, at 880 Front Street, Suite 2246, San Diego, CA 92101.

Respondent respectfully requests that the Board accept this Notice of Appeal.

Sincerely,

Date: 03/24/2026

Otavio Haverroth Silva, SBN#343486
P.O. Box 90487
San Diego, CA 92169
(510) 241-9336

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Payment Receipt

A payment has been processed for the following case before the Executive Office for Immigration Review.

For cases before the Immigration Court, please contact the Court that is currently hearing your case for questions regarding payment. For cases before the Board of Immigration Appeals (BIA), please contact the BIA Clerk's Office for questions regarding payment at (703) 605-1007.

A copy of this receipt must be included with the application, motion, or appeal that is filed with the Immigration Court or the BIA Clerk's Office. Failure to include a receipt showing proof of payment will result in rejection of the filing.

A-Number: 245-919-694

Payment Tracking ID: 280P3ITR

Payment Processed On: 3/24/2026 12:42:07 PM EST

Payment Type: PLASTIC_CARD

Payment Amount: $1,030.00

Filing Type: BIA - Appeal (new filing of a Form EOIR-26)

Save or print this receipt immediately. A copy will not be sent via email. The tracking ID is required to retrieve a duplicate receipt.

*Please note there is an **annual fee** for all asylum applications, which is due on the anniversary of each calendar year that an alien's asylum application remains pending; no fee-waiver or reduction in fee is permitted. **This fee must be paid timely**; failure to pay within 30 days of the anniversary due date will likely result in pretermission of the asylum application and an order of removal. This will be the only notice that the alien will receive regarding this annual payment requirement. Payment of this fee can be made at https://epay.eoir.justice.gov/index.

Current annual fee amounts can be found at www.justice.gov/eoir/types-appeals-motions-and-required-fees.

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB# 1125-0002

Notice of Appeal from a Decision of an Immigration Judge

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

Sandra Valdeci Nascimento Barbosa, A-Number 245-919-694

Staple Check or Money Order Here. Include Name(s) and "A" Number(s) on the face of the check or money order.

WARNING: Names and "A" Numbers of **everyone** appealing the Immigration Judge's decision must be written in item #1. The names and "A" numbers listed will be the only ones considered to be the subjects of the appeal.

For Official Use Only

2. I am ☑ the Respondent/Applicant ☐ DHS-ICE *(Mark only one box.)*

3. I am ☐ DETAINED ☑ NOT DETAINED *(Mark only one box.)*

4. My last hearing was at Immigration Court, San Diego, California *(Location, City, State)*

5. **What decision are you appealing?**

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

☑ I am filing an appeal from the Immigration Judge's decision *in **merits** proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated February 26, 2026.

☐ I am filing an appeal from the Immigration Judge's decision *in **bond** proceedings* dated _____. (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ☐ Yes. ☐ No.)

☐ I am filing an appeal from the Immigration Judge's decision ***denying a motion to reopen or a motion to reconsider*** dated _____.

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

Form EOIR-26
Rev. Nov. 2022
Exp. Jan. 2026

6. **State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.**

Respondent, by and through undersigned counsel, hereby submits the following reasons for appeal, in response to the Immigration Judge's (IJ) pretermission and denial of Respondent's applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT), and subsequent order of removal.

The IJ's decision, dated February 26, 2026, was based on the Department of Homeland Security's (DHS) Motion to Pretermit filed under *Matter of H-A-A-V-*, 29 I&N Dec. 233 (BIA 2025).

Respondent respectfully presents the following grounds for this appeal:

1. The Immigration Judge erred in granting DHS's motion that relied on *Matter of H-A-V-V-,* 29 I&N Dec. 233 (BIA 2025), without explaining how the facts and procedural posture of this case fit within that precedent. The order contains no meaningful analysis connecting the cited precedent to the present case and fails to address or analyze whether the requirements articulated in that precedent were met in the case beforehand. Moreover, the Immigration Judge failed to address, analyze, or even acknowledge the arguments raised in the Respondent's opposition to the motion. The Respondent presented specific legal and factual arguments distinguishing this case from *Matter of H-A-V-V-,* yet the order does not reflect that those arguments were considered or weighed. The Respondent also raised due process arguments that were not addressed or confronted in the Immigration Judge's decision. An Immigration Judge must consider the arguments raised by the parties and provide a reasoned explanation for the decision; the failure to do so constitutes legal error and an abuse of discretion. Because the decision neither explains how *Matter of H-A-V-V-* applies to this case nor engages with the Respondent's opposition, the order lacks sufficient reasoning and constitutes an abuse of discretion.

The remaining grounds for appeal are provided in the additional sheets attached to this Notice of Appeal.

(Attach additional sheets if necessary)

WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? ☐ Yes ☑ No

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ☑ Yes ☐ No

9. If you are unrepresented, do you give consent to the BIA Pro Bono Project to have your case screened by the Project for potential placement with a free attorney or accredited representative, which may include sharing a summary of your case with potential attorneys and accredited representatives? *(There is no guarantee that your case will be accepted for placement or that an attorney or accredited representative will accept your case for representation)* ☐ Yes ☐ No

WARNING: If you mark "Yes" in item #7, you should also include in your statement above why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

10. **Print Name:** Otavio Haverroth Silva

11. **Sign Here:** X  03/24/2026

Signature of Person Appealing
(or attorney or representative)

Date

Form EOIR-26
Rev. Nov. 2022
Exp. Jan. 2026

12. **Mailing Address of Respondent(s)/Applicant(s)**

Sandra Valdeci Nascimento Barbosa
(Name)

13195 Wimberly Square
(Street Address)

Unit 312
(Apartment or Room Number)

San Diego, California, 92128
(City, State, Zip Code)

(858) 588-4791
(Telephone Number)

11. **Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)**

Otavio Haverroth Silva
(Name)

PO Box 90487
(Street Address)

N/A
(Suite or Room Number)

San Diego, California, 92169
(City, State, Zip Code)

(510) 241-9336
(Telephone Number)

NOTE: You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

13.

PROOF OF SERVICE (You Must Complete This)

I Otavio Haverroth Silva (Name) mailed or delivered a copy of this Notice of Appeal

on 03/24/2026 (Date) to Assistant Chief Counsel of DHS - ICE (Opposing Party)

at 880 Front Street, Suite 2246, San Diego, CA, 92101
(Number and Street, City, State, Zip Code)

☐ No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

SIGN HERE X 
Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee payment receipt, fee, or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- ☑ Read all of the General Instructions.
- ☑ Provided all of the requested information.
- ☑ Completed this form in English.
- ☐ Provided a certified English translation for all non-English attachments.
- ☑ Signed the form.
- ☑ Served a copy of this form and all attachments on the opposing party, if applicable.
- ☑ Completed and signed the Proof of Service
- ☑ Attached the required fee payment receipt, fee, or
- ☑ Fee Waiver Request.
- ☑ If represented by attorney or representative, attach a completed and signed EOIR-27 for each respondent or applicant.

ADDITIONAL SHEETS OF RESPONDENT'S REASONS FOR APPEAL - FORM EOIR-26, SECTION 6

The Respondent respectfully presents the following remaining grounds for her appeal:

2. Respondent's case is materially distinguishable from *Matter of H-A-A-V-*, 29 I&N Dec. 233 (BIA 2025). Under *Matter of H-A-A-V-*, an Immigration Judge may pretermit applications only "if the factual allegations underlying a claim for asylum, withholding of removal, or protection under the Convention Against Torture, viewed in the light most favorable to the respondent, do not establish prima facie eligibility for relief or protection." *Id.* at 238. Critically, pretermission is authorized only where "there [are] no factual issues in dispute." *Id*. at 234. The decision emphasizes that "[d]ue process requires that respondents in immigration proceedings be given an "opportunity to be heard 'at a meaningful time and in a meaningful manner.'"" *Id*. at 237, citing *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Here, material factual issues were plainly in dispute. The IJ's own order following the August 19, 2025 hearing directed the Respondent to submit additional evidence and briefing, including an amended I-589, supplemental evidence, briefing on the CLP exception, and PSG cognizability briefing, confirming that the record was incomplete and contested issues remained. This means the court identified factual questions that required the development of the evidentiary record, further legal argumentation, and the Respondent's personal testimony. Respondent complied with every directive. Later, DHS identified in its own motion factual issues regarding the timeline of persecution and Brazil's protection mechanisms. However, despite these unresolved factual issues, IJ pretermitted Respondents' protection claims, denying her a full evidentiary hearing and leaving these matters unsolved. By pretermitting before a complete analysis and adversarial evaluation of the new evidence provided, the IJ denied Respondent the "meaningful" hearing that *H-A-A-V-*, *Matthews v. Elridge* and due process demand. Moreover, viewing the facts in the light most favorable to Respondent, as *H-A-A-V-* requires, it is clear that the full record established prima facie eligibility for relief. The IJ's pretermission was therefore legally and factually erroneous.

3. The IJ expressly requested briefing on Respondent's eligibility under the Circumvention of Lawful Pathways (CLP) rule exception at the August 19, 2025 hearing. Respondent complied by presenting evidence and legal argument demonstrating extraordinary circumstances under 8 C.F.R. § 1208.33(a)(3)(i)(B), including death threats by armed smugglers, machete violence, police extortion during transit, and acute medical emergencies. Despite requesting this briefing, the IJ failed to address or rule on the issue in her decision. This omission constitutes reversible error, as the IJ had an obligation to decide matters she identified as requiring clarification and which Respondent fully briefed.

4. The IJ violated Respondent's due process rights by denying a full evidentiary hearing despite disputed factual issues. Due process requires an "opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). INA § 240(b)(4)(B) mandates a reasonable opportunity to examine and present evidence and cross-examine witnesses. *See* also INA § 240(c)(4)(B); 8 C.F.R. § 1240.11(c)(3)(iii). As a general rule, "due process requires that an alien be afforded a fair opportunity to be heard." *Okpala v. Whitaker*, 908 F.3d 965, 971 (5th Cir. 2018). By pretermitting Respondent's claims without permitting her to present testimony, cross-examine witnesses, or fully develop the record on contested factual issues, the IJ denied her this fundamental right.

5. Additionally, the IJ categorically rejected all three proposed particular social groups (PSG), relying on *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018), and *Matter of K-E-S-G-*, 29 I&N Dec. 145 (BIA 2025), contrary to binding Ninth Circuit precedent prohibiting categorical rejection of gender-based PSGs and contrary to the case-specific inquiry these precedents require. *See Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1086 (9th Cir. 2020); *Plancarte Sauceda v. Garland*, 23 F.4th 824 (9th Cir. 2022). Additionally, *Matter of A-B-* (reinstated by *Matter of S-S-F-M-*, 29 I&N Dec. 207 (A.G. 2025)) does not impose a categorical bar to domestic violence or private-actor claims; rather, *S-S-F-M-* reiterates that adjudicators must resolve PSG claims through "case-by-case adjudication," recognizing that PSG determinations are "a fact-based inquiry." *Matter of S-S-F-M-*, 29 I&N Dec. 207 (A.G. 2025), at 210. Here, the IJ avoided the case-specific inquiry demanded by *Matter of A-B-, Diaz-Reynoso v. Barr* and *Plancarte Sauceda v. Garland* when it categorically dismissed all proposed PSGs.

6. All three PSGs satisfy the immutability, particularity, and social distinction prongs under a case-specific inquiry, taking into account the particular circumstances involving the Respondent's claims, the robust evidentiary record provided, and Brazil's country conditions.

(a) "Brazilian Women": Recognized under *Perdomo v. Holder*, 611 F.3d 662, 669 (9th Cir. 2010) and *Mohammed v. Gonzales*, 400 F.3d 785, 793 (9th Cir. 2005), which remain binding notwithstanding *Matter of K-E-S-G-*, 29 I. & N. Dec. 145 (BIA 2025).

(b) "Brazilian women viewed as property by virtue of their positions within a domestic relationship": The IJ ignored country conditions' evidence that support the social distinction and particularity of this group. Brazil has special laws tailored specifically for this class of people (Maria da Penha Law), which are sufficient to support its social distinction, pursuant to *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1093 (9th Cir. 2013) (en banc).

(c) "Brazilian women unable to leave their domestic relationship": In *Diaz-Reynoso v. Barr*, the Ninth Circuit concluded that the proposed PSG of "indigenous women in Guatemala who are unable to leave their relationship" was not categorically barred and that the BIA erred by avoiding the case-specific inquiry required by *Matter of A-B-* and its own precedent. 968 F.3d at 1080–87. Moreover, the IJ erroneously found Respondent was not a member because she obtained a divorce. This is clearly erroneous. Respondent endured a 42-year abusive marriage. Under *Diaz-Reynoso*, 968 F.3d at 1086, the "inability to leave" stems from cultural, economic, religious, and social constraints, not from the legal availability of divorce. And, as reflected in Ms. Nascimento's case, the formal dissolution of the marriage did not end the persecution, which continued despite the finalized divorce. Respondent's past persecution during the marriage independently qualifies her for asylum and triggers a regulatory presumption of future persecution, that shifts the burden to the government to prove changed conditions by a preponderance of the evidence. *See Rios v. I.N.S.,* 5 Fed.Appx. 726 (9th Cir. 2001); *Surita v. I.N.S.,* 95 F.3d 814 (9th Cir. 1996); *see* also 8 C.F.R. § 1208.13(b)(1). The IJ failed to apply this presumption, and the government presented no evidence to rebut it.

7. Furthermore, the IJ dismissed Respondent 's political opinion claim citing *Santos-Lemus v. Mukasey,* 542 F.3d 738 (9th Cir. 2008), but failed to apply *Rodriguez Tornes v. Garland*, 993 F.3d 743 (9th Cir. 2021), which recognizes feminism and opposition to male domination as cognizable political opinions. Respondent's resistance to her husband's abuse and assertion of autonomy constitute a political opinion.

8. The IJ erred in denying CAT protection by conflating the existence of legal provisions with effective protection. Acquiescence includes "willful blindness" and systematic failure to protect. 8 C.F.R. § 1208.18(a)(1); *Zheng v. Ashcroft*, 332 F.3d 1186, 1194 (9th Cir. 2003). The record evidence of Brazil's high femicide rates and documented enforcement failures demonstrates it is more likely than not that the government will acquiesce in Respondent's torture through systematic inaction. The IJ's reliance on Respondent's decision not to pursue criminal procedures, a common response among domestic violence survivors who lack confidence in state protection and fear revictimization and retaliation, further demonstrates misunderstanding of the acquiescence standard and the dynamics of domestic violence. DHS failed to carry its burden to prove the government would not acquiesce.

This appeal warrants three-member panel review under 8 C.F.R. § 1003.1(e)(6) because: (1) the IJ's decision is not in conformity with applicable law and BIA and Ninth Circuit precedent, (2) the IJ's factual determinations, particularly regarding PSG membership and government acquiescence, are clearly erroneous; and (3) the Immigration Judge's pretermission of Respondent's applications despite the existence of disputed material facts, and without affording a full evidentiary hearing, deprived Respondent of her statutory and constitutional right to a meaningful opportunity to be heard in violation of INA § 240(b)(4)(B) and the Due Process Clause, thereby requiring remand for a full and fair hearing.

Respondent reserves the right to raise additional arguments in a separate written brief after review of the complete record of proceedings.

Otavio Silva (Bar N. 343486)
Attorney at Law
P.O. Box 90487
San Diego, CA 92169
Counsel for Respondent

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB#1125-0005

Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals

(Type or Print)
NAME AND ADDRESS OF REPRESENTED PARTY

Sandra		Valdeci Nascimento Barbosa
(First)	(Middle Initial)	(Last)

13195 Wimberly Square		Unit 312
(Number and Street)		(Apt. No.)

San Diego	CA	92128
(City)	(State)	(Zip Code)

A-NUMBER
(Provide Alien ("A") number of the party represented)
A245-919-694

USCIS Visa Appeal (Provide beneficiary name and A number)
N/A

Fine (Provide fine number)
N/A

Disciplinary case (Provide docket number)
N/A

Attorney or Representative (please check one of the following):

☑ I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following states(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia (use additional space on reverse side if necessary), and I am not subject to any order disbarring, suspending, enjoining, restraining or otherwise restricting me in the practice of law in any jurisdiction (if subject to such an order, do not check this box and explain on reverse).

Full Name of Court California **Bar Number (if applicable)** 343486

☐ I am a representative accredited to appear before the Executive Office for Immigration Review as defined in 8 C.F.R. § 1292.1(a)(4) with the following recognized organization:

☐ I am a law student or law graduate of an accredited U.S. law school as defined in 8 C.F.R. § 1292.1(a)(2).

☐ I am a reputable individual as defined in 8 C.F.R. § 1292.1(a)(3) and I have included a statement demonstrating that I meet the required criteria.

☐ I am an accredited foreign government official, as defined in 8 C.F.R. § 1291.1(a)(5), from _____ (country).

☐ I am a person who was authorized to practice on December 23, 1952, under 8 C.F.R. § 1292.1(b).

Attorney or Representative (please check one of the following):

☑ I hereby enter my appearance as attorney or representative for, and at the request of, the party named above.

☐ EOIR has ordered the provision of a Qualified Representative for the party named above and I appear in that capacity.

I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representations before the Board of Immigration Appeals. By signing this form, I consent to publication of my name and any findings of misconduct by EOIR, should I become subject to any public discipline by EOIR pursuant to the rules and procedures at 8 C.F.R. 1003.101 *et seq.* I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNATURE OF ATTORNEY OR REPRESENTATIVE	EOIR ID NUMBER	DATE
X	RR665872	03/24/2026

NAME OF ATTORNEY OR REPRESENTATIVE, ADDRESS, FAX & PHONE NUMBERS, & EMAIL ADDRESS

Name: Otavio	H	Silva
(First)	(Middle Initial)	(Last)

Address: 5051 La Jolla Blvd	Suite 202
(Number and Street)	(Suite)

Law Firm: HS Law

San Diego	CA	92109
(City)	(State)	(Zip Code)

Telephone: (510) 241-9336 Facsimile: N/A Email: otavio@yousalaw.com

☐ Check here if new address

Indicate Type of Appearance:

☑ Primary Attorney/Representative ☐ Non-Primary Attorney/Representative

I am providing pro bono representation. Check one: ☐ yes ☑ no

Proof of Service

I (Name) Otavio Haverroth Silva provided a copy of this Form EOIR-27 on (Date) 03/24/2026 to the

☑ DHS (U.S. Immigration and Customs Enforcement – ICE) at 880 Front Street, Suite 2246, San Diego, CA 92101

☐ DHS (U.S. Citizenship and Immigration Services – USCIS) at _____

☐ EOIR Disciplinary Counsel at _____

☐ No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

X _____

Signature of Person Serving

APPEARANCES - A practitioner of record is authorized and required to appear on behalf of a respondent, to file all documents on behalf of a respondent, and to accept service of process of all documents filed in the proceedings before the Board of Immigration Appeals (BIA). *See* 8 C.F.R. §§ 1003.38(g)(1)(ii), 1292.5(a). To perform the functions of and become the practitioner of record, the practitioner must file a separate Form EOIR-27 for each represented party in each appeal or motion before the BIA (8 C.F.R. § 1003.2(g)(1), 1003.3(a)(3), 1003.38(g)(1)), even though the practitioner may have appeared in the case before the Immigration Judge or U.S. Citizenship and Immigration Services. For information on how to file a Form EOIR-27 with the BIA, see the BIA Practice Manual at www.justice.gov/eoir. If information is omitted from the Form EOIR-27 or is not properly completed, the appearance may not be recognized, and the accompanying filing may be rejected. When an appearance as a practitioner of record is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon approval by the BIA of a request of the practitioner of record in accordance with *Matter of Rosales*, 19 I&N Dec. 655 (1988). Appearances for limited purposes other than for document assistance to an unrepresented or *pro se* respondent are not permitted. 8 C.F.R. § 1003.2(g)(1), 1003.38(g)(2); *Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). A Form EOIR-60, not a Form EOIR-27, is required for the entry of a limited appearance for document assistance on an appeal, brief, motion, or other document. Note: Attorneys and Accredited Representatives (with full accreditation) must register with the EOIR eRegistry to practice before the BIA. 8 C.F.R. § 1292.1(f). Registration must be completed online at www.justice.gov/eoir. Attorneys and Accredited Representatives (with full accreditation) must first update their address in eRegistry before filing a Form EOIR-27 that reflects a new address.

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act (FOIA) or the Privacy Act. *See* 28 C.F.R. § 16.1-16.11 and appendices. For information about FOIA requests, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, at https://www.justice.gov/eoir.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. § 1362 and 8 C.F.R. § 1003.3 in order to enter an appearance to represent a party before the BIA. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notices of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999), or their successors. Furthermore, the submission of this form acknowledges that an attorney or representative will be subject to the disciplinary rules and procedures at 8 C.F.R. § 1003.101 et seq., including, pursuant to 8 C.F.R. §§ 292.3(h)(3), 1003.108(c), publication of the name of the attorney or representative and findings of misconduct should the attorney or representative be subject to any public discipline by EOIR.

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (800) 898-7180 or (304) 625-2050 or by checking online at https://acis.eoir.justice.gov.

ADDITIONAL INFORMATION:

PAPERWORK REDUCTION ACT NOTICE - A person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose minimal burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Exhibit list

Exhibits:	Pages:
Exhibit 1	
Copy of Immigration Court's Order	1-4

Exhibit 1

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
SAN DIEGO IMMIGRATION COURT

Respondent Name:
NASCIMENTO BARBOSA, SANDRA VALDECI

To:
Otavio Haverroth Silva, Esq.
5051 La Jolla Blvd.
Suite 202
San Diego, CA 92109

A-Number:
245-919-694
Riders:
In Removal Proceedings
Initiated by the Department of Homeland Security
Date:
02/26/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent is a 60-year-old female, native and citizen of Brazil. The respondent was placed into removal proceedings upon the issuance of a Notice to Appear (NTA, Form I-862) by the Department of Homeland Security (DHS) on March 21, 2024. The respondent was personally served with the NTA on March 22, 2024, and signed acknowledging personal service.
The NTA for the respondent was filed with the Court by the DHS on March 22, 2024, vesting jurisdiction with this Court to hear the respondent's removal proceedings. Pleadings were taken and removability sustained under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (Act) by the Immigration Judge on May 24, 2024. Brazil was designated as the country for removal purposes based on the Department's recommendation.

On July 11, 2024, the respondent filed Form I-589, Application for Asylum and for Withholding of Removal, seeking asylum, withholding of removal, and protection under the Convention Against Torture. The respondent filed amendments to her application on September 18, 2024 and December 31, 2025. The Court set the respondent's case to a Merits Hearing and set a supplemental filing deadline of December 29, 2025. The respondent filed declarations, documentary evidence and a prehearing statement in support of her applications. The respondent asserts that she is eligible for asylum and withholding of removal based on her membership in the following particular social groups: (1) "Brazilian Women;" (2) "Brazilian women viewed as property by virtue of their positions within a domestic relationship"; and (3) "Brazilian women who are unable to leave their domestic relationship." The respondent also claims she is eligible because she will be targeted on account of her political opinion of "defiance and opposition against her ex-husband's violent control in the relationship." Finally, the respondent indicates that she will more likely than not be tortured if returned to Brazil.

The Court hereby pretermits and denies the respondent's applications for relief. The respondent has failed to establish prima facie eligibility for relief. In order to be eligible for asylum and withholding of removal under the Immigration and Nationality Act (INA), an applicant must

establish that they qualify as a refugee as defined under INA section 101(a)(42). A refugee is someone "who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion...." INA § 101(a)(42). The respondent has failed to show that she qualifies as a refugee.

First, as noted by DHS is its motion to pretermit, the particular social groups identified by the respondent are not cognizable under current case law. The first group of "Brazilian Women" is overbroad and insufficiently particular to be cognizable. See Matter of K-E-S-G, 29 I&N Dec. 145 (BIA 2025) (finding the particular social group of Salvadoran women as lacking particularity to constitute a particular social group). The second group of "Brazilian women viewed as property by virtue of their positions within a domestic relationship" is likewise not cognizable as it is subjective and unsupported by evidence that the phrase "viewed as property" has a commonly accepted definition in Brazil. Id. at 154 (finding the proposed particular social group of Salvadoran women viewed as property lacked the requisite particularity where there was no evidence that the phrase “viewed as property” has a commonly accepted definition in El Salvador). The third group of "Brazilian women who are unable to leave their domestic relationship" is likewise not cognizable as the Record fails to show that Brazilian society perceives the group proposed by the respondent to be a distinct group. Matter of A-B-, 27 I. & N. Dec. 316, 336 (2018) ("Particular social group definitions that seek to avoid particularity issues by defining a narrow class--such as 'Guatemalan women who are unable to leave their domestic relationships where they have children in common'--will often lack sufficient social distinction to be cognizable as a distinct social group, rather than a description of individuals sharing certain traits or experiences."). More problematically, the Record does not show that the respondent is a member of the group given that she was able to leave the relationship through a legal divorce.

The Record likewise fails to show the respondent was targeted due to any political opinion. Although the respondent asserts that her former spouse harmed her on account of her political opinion of "defiance and opposition against her ex-husband's violent control in the relationship," the respondent has failed to show that qualifies as a political opinion. The U.S. Court of Appeals for the Ninth Circuit has rejected a similar claim as not qualifying as a political opinion. See Santos-Lemus v. Mukasey, 542 F.3d 738, 747 (9th Cir. 2008), abrogated on other grounds by Henriquez-Rivas v. Holder, 707 F.3d 1081 (9th Cir. 2013) (stating that "resistance to a gang's recruitment efforts alone [does not] constitute[] political opinion"); but see Rodriguez Tornes v. Garland, 993 F.3d 743, 752 (9th Cir. 2021) ("We have held repeatedly that political opinions encompass[ ] more than electoral politics or formal political ideology or action.”) (internal quotations omitted). The respondent has not presented evidence of an actual political opinion or motive in her or her ex-spouse's actions.

As to the respondent's claim of fear of torture, the Record fails to show that it is more likely than not that the respondent will be harmed by or with the consent or acquiescence of the Brazilian government. 8 C.F.R. § 1208.16(c)(2); Zheng v. Ashcroft, 332 F.3d 1186, 1194 (9th Cir. 2003). The respondent does not allege that the Brazilian government has harmed her or is likely to do so. Rather, the respondent fears harm by her ex-spouse, a private actor. The Record

fails to show a clear probability that the government of Brazil would torture her or consent or acquiesce, including willful blindness, to her torture at the hands of someone else. The respondent did not report her ex-spouse's actions to the Brazilian government at or near the time of occurrence or while she was in the country of Brazil. Rather, she waited until coming to the United States to report his actions. Even so, the Brazilian authorities still took the report from the respondent, but she informed them that she "does not wish for the relevant police procedure to be initiated to investigate the reported incidents." Thus, the respondent's own evidence shows there is a procedure that would be initiated by the authorities upon her report, but she requested that it not be commenced. The country condition evidence she filed likewise shows that there is "a comprehensive framework of legal provisions to combat domestic violence in Brazil," thereby showing that the Brazilian government is not more likely than not to consent or acquiesce in her torture. See e.g., Exh. 14 at EOIR 3.

While the Court sympathizes with any harm the respondent may have endured at the hands of her ex-spouse, the asylum laws of the United States are not intended to protect these types of claims. If the factual allegations underlying a claim for asylum, withholding of removal, or protection under the Convention Against Torture, viewed in the light most favorable to the respondent, do not establish prima facie eligibility for relief or protection, an Immigration Judge may pretermit the applications without a full evidentiary hearing on the merits of the claim. See Matter of H-A-AV-, 29 I&N Dec 233 (BIA 2025). Moreover, the mere fact that a country may have problems effectively policing certain crimes or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim. See Matter of A-B-, 27 I&N Dec. 316 (A.G. 2018).

In this case, the Court finds that it is appropriate to pretermit and deny the respondent's applications for asylum, withholding of removal, and protection under the Convention Against Torture. The respondent has presented no viable claim to relief. As the NTA was served less than one year after the respondent's date of entry into the United States, she is not statutorily eligible for post-conclusion voluntary departure. INA § 240B(b)(1).

Accordingly, the Court will enter the following orders:

Order:

IT IS HEREBY ORDERED that the respondent's application for asylum is pretermitted and denied.

IT IS FURTHER ORDERED that the respondent's application for withholding of removal is pretermitted and denied.

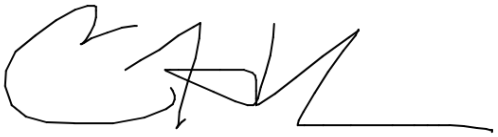
IT IS FURTHER ORDERED that the respondent's request for protection under the Convention Against Torture is pretermitted and denied.

IT IS FURTHER ORDERED that the respondent is ordered REMOVED from the United States to BRAZIL based on the Section 212(a)(6)(A)(i) charge contained in the Notice to Appear.

FAILURE TO DEPART PENALTIES: If Respondent is subject to a final order of removal and

willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

Appeal reserved for both parties.



Immigration Judge: Halliday-Roberts, Catherine 02/26/2026

Appeal: Department of Homeland Security: ☐ waived ☑ reserved
Respondent: ☐ waived ☑ reserved
Appeal Due: 03/30/2026

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Respondent Name : NASCIMENTO BARBOSA, SANDRA VALDECI | A-Number : 245-919-694
Riders:
Date: 02/26/2026 By: Halliday-Roberts, Catherine, Immigration Judge

CERTIFICATE OF SERVICE

On March 24, 2026, I, Otavio Haverroth Silva, served, by mail, a copy of this **Notice of Appeal from a Decision of an Immigration Judge**, along with all attached documents, to the Assistant Chief Counsel of DHS, Office of the Principal Legal Advisor, at the following mailing address: 880 Front Street, Suite 2246, San Diego, CA 92101.

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