Center for Gender & Refugee Studies

NATIONAL IMMIGRATION PROJECT
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O.C.V. v. Bondi: Tenth Circuit Vacates *Matter of M-R-M-S-*

On August 26, 2025, the Tenth Circuit issued a published decision in *O.C.V. v. Bondi*, – F.4th –, 2025 WL 2447603 (10th Cir. 2025) (Tymkovich, J., dissenting), a case litigated by CGRS and the National Immigration Project.

O.C.V. is the direct appeal[1] of the Board of Immigration Appeals' ("BIA") decision, *Matter of M-R-M-S-*, 28 I&N Dec. 757 (BIA 2023). *M-R-M-S-* established a heightened standard for assessing nexus, holding that "[i]f a persecutor is targeting members of a certain family as a means of achieving some other ultimate goal unrelated to the protected ground, family membership is incidental or subordinate to that other ultimate goal and therefore not one central reason for the harm."[2] The Tenth Circuit granted the petition for review, vacated the BIA decision, and remanded the case.

What did the Tenth Circuit say?

- The court struck down *M-R-M-S-* because its core holding violates the statutorily required mixed-motive standard. The court "readily conclude[d]" that *M-R-M-S-* "contravenes the INA and many circuits' recognition that a protected ground cannot be dismissed as an incidental or tangential reason for the persecution simply because a persecutor might have pecuniary goals, or other goals unrelated to protected grounds."[3] The court found that *M-R-M-S-* created an impermissible categorical rule that "prematurely ends" the nexus inquiry after identifying a persecutor's "ultimate goal unrelated to the protected ground."[4]

- Petitioners argued that *M-R-M-S-*'s core holding was also contrary to law because it changed the nexus inquiry to focus on whether the protected ground was a "means" or an "end." However, the court held that the means/end language was appropriate in this case, because it could be read as consistent with the nexus standard established in *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208 (BIA 2007). The

[1] The case name changed from the BIA decision because the lead respondent passed away before the petition for review was filed.
[2] 28 I&N Dec. at 762.
[3] *O.C.V.*, 2025 WL 2447603, at *7-9 (internal quotation marks omitted).
[4] *Id.* at *8-9.

court also said that it was not categorically approving this framing, noting that the means/end language could not be used in a way that circumvents the mixed-motive nexus standard.[5]

- The court distinguished the law of the Fourth Circuit, to the extent it requires only a showing of but-for causation to establish nexus. The court reaffirmed that Tenth Circuit precedent does not treat but-for causation as necessarily sufficient to meet the "one central reason" nexus standard.[6]

- Petitioners also challenged separate language in *M-R-M-S-* that suggested a persecutor must be motivated by "animus" to establish nexus. The court found this language acceptable under Tenth Circuit caselaw recognizing that a persecutor's "animus" towards the protected characteristic is part of the nexus analysis. However, the court made clear that "animus" is a broad concept that does not require literal animosity or that the persecutor be acting with ill will; persecution that is intended to overcome a characteristic constitutes "animus" even if it is inflicted with benevolent intent.[7] The court declined to address all the ways "animus" might be shown.[8]

Does *M-R-M-S-* remain good law in any circuit?

The Tenth Circuit fully vacated *M-R-M-S-*, expressly acknowledging that the government did not seek a more limited remedy.[9] Because a vacated decision has no "prospective legal effect" and "the law acts as though the vacated order never occurred," advocates practicing outside the Tenth Circuit can argue that *M-R-M-S-* is no longer good law, though the BIA and immigration courts may disagree with this view.[10] Advocates in the First, Third, and Sixth Circuits may also point to published decisions in those circuits that disagree with *M-R-M-S-* in whole or in part.[11]

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[5] *Id.* at *9-10 & n.13.
[6] *Id.* at *11-12.
[7] *Id.* at *13 (approvingly citing *Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996), and *Pitcherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997)).
[8] *O.C.V.*, 2025 WL 2447603, at *13 n.18.
[9] *Id.* at *16 n.22.
[10] *Hewitt v. United States*, 145 S. Ct. 2165, 2173-74 (2025); *but see Sabwa v. Garland*, 2024 WL 3358159, at *3 (6th Cir. July 10, 2024) (continuing to rely on vacated BIA decision).
[11] *Lopez v. U.S. Att'y Gen.*, 142 F.4th 162, 171 (3d Cir. 2025); *Mayancela v. Bondi*, 136 F.4th 1, 13 n.8 (1st Cir. 2025); *Mazariegos-Rodas v. Garland*, 122 F.4th 655, 670 (6th Cir. 2024).