

II. FACTUAL BACKGROUND OF THE CASES

A. EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

before IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

Much of EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

1. Decision of the IJ

In an EOIR(b)(6)/OPR(b)(6)(b)(7)(C) oral decision, IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) denied EOIR(b)(6)/OPR(b)(6)(b)(7)(C) applications for relief. EOIR(b)(6)/OPR(b)(6)(b)(7)(C) found that EOIR(b)(6)/OPR(b)(6)(b)(7)(C) was time-barred from receiving asylum because EOIR(b)(6)/OPR(b)(6)(b)(7)(C) did not file EOIR(b)(6)/OPR(b)(6)(b)(7)(C) IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) found further that EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)

1. EOIR(b)(6)/OPR(b)(6)(b)(7)(C) also considered EOIR(b)(6)/OPR(b)(6)(b)(7)(C) application for withholding of removal based on having endured FGM.¹² IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) found that although EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) had not established a clear probability of future persecution on one of five enumerated grounds (race; religion; nationality; membership in a particular social group; or political opinion) if EOIR(b)(6)/OPR(b)(6)(b)(7)(C) were removed

¹¹ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) (internal quotations omitted).

¹² Pursuant to 8 C.F.R. § 1208.20, a finding that an alien has filed a frivolous asylum application does not preclude that alien from seeking withholding of removal.

OPR(b)(6)(b)(7)(C) ¹³ IJ OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

2. BIA Decision

EOIR(b)(6)/OPR(b)(6)(b)(7)(C) filed a timely appeal to the BIA. On appeal, EOIR(b)(6)/OPR(b)(6)(b)(7)(C) contended that she faced continuing harm OPR(b)(6)(b)(7)(C) also
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

In a OPR(b)(6)(b)(7)(C) decision, the BIA (authored by EOIR Non-Responsive) affirmed IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) decision in part and dismissed it in part. The BIA agreed with IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) finding that EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

The BIA also agreed with IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) denial of withholding of removal on the ground that OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) ¹⁶ The Board rejected EOIR(b)(6)/OPR(b)(6)(b)(7)(C) claim

OPR(b)(6)(b)(7)(C)

¹³ See OPR(b)(6)(b)(7)(C).

¹⁴ IJ Decision at 12 (August 23, 2005).

¹⁵ The BIA case cited was issued nine days after IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) ruled in the EOIR(b)(6)/OPR(b)(6)(b)(7)(C) case. *In Re:* EOIR(b)(6)/OPR(b)(6)(b)(7)(C) (per curiam).

¹⁶ The BIA assumed, *arguendo*, that EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)

¹⁷ *Id.* at 4 (emphasis in original). OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

Thereafter EOIR(b)(6)/OPR(b)(6)(b)(7)(C) filed a timely appeal with the U.S. Court of Appeals for the
EOIR(b)(6)/OPR(b)(6)(b)(7)(C) Circuit.

B. EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

¹³ *Id.*

¹⁴ *Id.* at 3.

²⁰ The Ninth OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C). See EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

²¹ Diallo & OPR(b)(6)(b)(7)(C)

²² EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

1. Decision of the IJ

[illegible]

Regarding the probability of future persecution, IJ [REDACTED] found that [REDACTED] failed to establish that [REDACTED].

[REDACTED] IJ [REDACTED]

[REDACTED]

IJ [REDACTED] also made alternative rulings on [REDACTED] other applications for relief. IJ [REDACTED] found that [REDACTED] asylum application was OPR(b)(6)(b)(7)(C) [REDACTED]
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

2. BIA Decision

EOIR(b)(6)/OPR(b)(6) appealed IJ EOIR(b)(6)/OPR(b)(6)(b)(7) decision to the BIA. On appeal, EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)

In an April 12, 2007 decision (authored by [REDACTED], EOIR Non-Responsive/C), the BIA affirmed IJ finding that [REDACTED] failed to meet [REDACTED] burden of proof for OPR(b)(6)(b)(7)(C) [REDACTED].

[REDACTED]
OPR(b)(6)(b)(7)(C)
[REDACTED]
EOIR(b)(6)/UPKID
OPR(b)(6)(b)(7)(C)

²³ IJ Decision at 20.

²⁴ *Id.*

³⁵ *Supra* at n.15; see *In Re: EOIR(b)(6)/OPR(b)(6)(b)(7)(C) BIA 2005*) (per curiam).

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

²⁶ *In Re* [redacted] at 3 (BIA 2007) (internal citation omitted).

²⁷ *See id.*, discussing EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

²⁸ *See* OPR(b)(6)(b)(7)(C).

²⁹ *Id.*

OPR(b)(6)(b)(7)(C)

The BIA also OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

* * *

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

³⁰ *Id.* at 3-4 (internal citations omitted).

³¹ *Id.* at 4 (internal citations omitted).

³² *Id.* at 5.

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)(b)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(7)

1.

for relief. IJ

OPR(b)(6)(b)(7)(C)

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III. OPR INVESTIGATION

A.

IJ

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C) IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) OPR(h)(6)(h)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C)

⁵⁷ IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) Response at 2 (September 16, 2008).

⁵⁸ *Id.* at 2-3. IJ EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C) EOIR(b)(6)/OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C) OPR(b)(6)(b)(7)(C)
OPR(b)(6)(b)(7)(C) See EOIR(b)(6)/OPR(b)(6)(b)(7)(C) (BIA 2007) (unpublished).

⁵⁹ *Id.* at 3.

B.

IJ

EOIR(b)(6)/OPR(b)(6)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

IJ

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

IJ

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

EOIR(b)(6)/OPR(b)(6)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

IJ

OPR(b)(6)(b)(7)(C)

OPR(b)(6)(b)(7)(C)

C.

BIA Member

EOIR Non Responsive/OPR

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

⁶¹ **IJ**

EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

Response at 5 (September 16, 2008).

⁶² *Id.* at 6.

⁶³ Attachment One of BIA Member EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)



⁶⁴ *Id.* at n. EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

⁶⁵ *Id.* at 2 (quotations in original).

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

D. **BIA Member**

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

⁶⁶ *Id.* at 3.

⁶⁷ *Id.* at 4 (internal citation omitted; emphasis in original).

⁶⁸ *Id.*

EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

IV. STANDARDS OF CONDUCT

A. OPR's Analytical Framework

OPR finds professional misconduct when an attorney intentionally violates or acts in reckless disregard of a known, unambiguous obligation imposed by law, rule of professional conduct, or Department regulation or policy. In determining whether an attorney has engaged in professional misconduct, OPR uses the preponderance of the evidence standard to make factual findings.

An attorney intentionally violates an obligation or standard when the attorney (1) engages in conduct with the purpose of obtaining a result that the

⁶⁹ EOIR Non Responsive/OPR (b)(6) & (b)(7)(C)

⁷⁰ *Id.* at 4 (internal quotations and citation omitted).

⁷¹ *Id.* at 5 quoting EOIR(b)(6)/OPR(b)(6)(b)(7)(C)

⁷² *Id.* at 6.

⁷³ *Id.* at 7.