

# BRIDGET BADE ON SEXUAL ASSAULT

## Highlights:

- Bridget Bade penned an opinion that discredited a victim of sexual assault and blamed her for not reporting her assault sooner.

## **Bridget Bade Blamed A Sexual Assault Victim For Delayed Reporting Of Her Sexual Assault**

### **BADE PENNED AN OPINION THAT DISCREDITED A VICTIM OF SEXUAL ASSAULT AND BLAMED HER FOR NOT REPORTING HER ASSAULT SOONER**

**In The Case *Vo v. Barr*, A Vietnamese Asylum Seeker Delayed Reporting Her Sexual Assault By Vietnamese Police, Causing The Immigration Judge To Determine That She Had Adverse Credibility.** According to the Petition For Review Of Order in the case *Vo v. Barr* by the Ninth Circuit Court of Appeals, “Hong Vo, a citizen of Vietnam, petitions for review of a decision of the Board of Immigration Appeals (‘BIA’) dismissing her appeal from the order of an Immigration Judge (‘IJ’) denying an application for asylum, withholding of removal, and protection under the Convention Against Torture (‘CAT’). [...] The BIA affirmed the IJ’s adverse credibility determination based on three inconsistencies: (1) the date of Vo’s second arrest; (2) whether Vo’s mother was present at the police station after her initial release; and (3) Vo’s failure to disclose, prior to her hearing before the IJ, allegations of sexual assault by Vietnamese police.” [Petition for Review of Order – *Vo v. Barr*, Ninth Circuit Court of Appeals, [8/21/20](#)]

**The Ninth Circuit Court Of Appeals Found That Delaying Disclosure Of Her Sexual Assault Was Not Proper Grounds For An Adverse Credibility Determination, Ordering The Case To Be Reconsidered.** According to the Petition For Review Of Order in the case *Vo v. Barr* by the Ninth Circuit Court of Appeals, “Vo’s omission of the assault does not support the adverse credibility determination for three reasons. First, Vo’s failure to disclose the sexual assault prior to her hearing testimony was not a true inconsistency but rather a further elaboration of the abuse she suffered in custody. Cf. *Kin v. Holder*, 595 F.3d 1050, 1057 (9th Cir. 2010) (upholding an adverse credibility finding where the petitioners ‘omitted any mention of their participation in a demonstration that is the entire basis for their claim’ (emphasis added). Second, the BIA relied on the IJ’s finding that Vo’s ‘omission of such a significant fact [was] not reasonable, just because she hadn’t told anybody before.’ That is not a proper basis for an adverse credibility determination. ‘We have previously held that the assumption that the timing of a victim’s disclosure of sexual assault is a bellwether of truth is belied by the reality that there is often delayed reporting of sexual abuse.’ *Mousa v. Mukasey*, 530 F.3d 1025, 1027 (9th Cir. 2008) (internal quotation marks omitted). Finally, the BIA found that ‘[Vo] could not explain how her family would gain access to the information outlined in her declaration and asylum application.’ But this finding has no basis in the record; the IJ never asked Vo to explain how her family in America would obtain her declaration. Therefore, the alleged inconsistency cannot serve as substantial evidence for finding Vo not credible.” [Petition for Review of Order – *Vo v. Barr*, Ninth Circuit Court of Appeals, [8/21/20](#)]

**Bade Dissented From The Court In This Case, Arguing That Vo’s Fear For Her Mother’s Safety Was Not A Compelling Explanation Of Her Delayed Disclosure For Her Sexual Assault.** According to Bade’s dissent in the Petition For Review Of Order in the case *Vo v. Barr* by the ninth circuit court of appeals, “I disagree with the majority’s reasons for rejecting the agency’s finding. To my knowledge, we have never announced a rule that the omission of a sexual assault allegation cannot support an adverse credibility determination. Instead, we have held that the agency should excuse such an omission when the petitioner ‘provide[s] a compelling explanation for her failure to mention her [sexual assault] at an earlier time in the proceedings.’ [...] Vo did not provide a compelling explanation here.” [Petition for Review of Order, Bade Dissent – *Vo v. Barr*, Ninth Circuit Court of Appeals, [8/21/20](#)]