

Board of Immigration Appeals swats away Mahmoud Khalil's appeal

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On April 16 – just yesterday – The Board of Immigration Appeals (BIA) publicly released its precedent decision in [Matter of M-K-, 29 I&N Dec. 556 \(BIA 2026\)](#), the immigration case of Palestinian activist and former Columbia University graduate student, Mahmoud Khalil. Though the decision was originally issued on April 9, 2026, its designation and publication today as binding BIA precedent makes it significantly more consequential, because the ruling now is binding precedent within the immigration court system.

Background

Khalil, a lawful permanent resident of the U.S., born in Syria to a Palestinian family, was arrested by ICE agents in March 2025 following a letter from Secretary of State Marco Rubio asserting that Khalil's presence

in the United States posed “potentially serious adverse foreign policy consequences” due to his role in pro-Palestinian protests at Columbia University. The Trump administration subsequently amended the removal charges against him to add a second ground: that he had made a material misrepresentation on his green card application by failing to disclose his internship with UNRWA, the United Nations relief agency for Palestinian refugees. Khalil was stripped of his lawful permanent residency. He appealed to the Board of Immigration Appeals or BIA.

What the BIA Decided

The BIA, in a decision authored by Chief Appellate Immigration Judge Malphrus and joined by Judges Hunsucker and Gemoets, dismissed Khalil’s appeal on every ground.

On the foreign policy charge, the Board held that Secretary Rubio’s letter constitutes “presumptive and sufficient evidence” of removability under INA §237(a)(4)(C)(i), and that neither immigration judges nor the BIA itself has authority to look behind a facially valid determination by the Secretary of State on a question of foreign policy. The Board actually described Secretary Rubio’s [Per My Last Email](#) as “equivalent to a duly-certified record of criminal conviction by a state or federal court” which must be a real jolt to Secretary Rubio’s self-esteem.

On the green card misrepresentation charge, the Board affirmed the Immigration Judge’s finding that Khalil’s failure to disclose his involvement with UNRWA – the U.N. Relief and Works Agency for Palestine Refugees – was willful and material, as it shut off a line of inquiry that would predictably have led an immigration officer to seek additional information. This is also a staggering finding. On the green card application, every applicant is asked “Have you EVER been a member of, involved in, or in any way associated with any organization, association, fund, foundation, party, club society, or similar group in the United States or in any other location in the world including military service?” The most common

response is No, and for good reason – the question is wildly overinclusive. On its face, that question includes the high school chess club, your neighborhood Stitch and Bitch, and Meals on Wheels. The BIA does not trouble to explain why Khalil should have disclosed his involvement with UNRWA, other than to note, haughtily, that Khalil's graduate education should have given him "an awareness of potential immigration consequences attributable to certain actions."

Why the Precedent Designation Matters

The publication of this decision as a designated BIA precedent goes beyond Khalil's individual case. As binding authority for all immigration courts and the BIA itself, *Matter of M-K-* establishes that a Secretary of State foreign policy letter alone is sufficient to bar nearly all claims for relief, and that association with organizations like UNRWA — even through an internship paid for by a third party like Columbia University — can support a finding of willful misrepresentation on a green card application. Immigration practitioners across the country should take note of both holdings.

What Comes Next

Khalil remains in the United States and cannot currently be deported. A federal injunction issued by a district court in New Jersey remains in effect while his separate habeas corpus case continues in the Third Circuit Court of Appeals. His legal team — which includes attorneys from the ACLU, the Center for Constitutional Rights, and Van Der Hout LLP — has announced plans to appeal the BIA's ruling. "Without the protection of a habeas court, the government could do this to anyone, which is why today's decision is an important reminder of the stakes of Mahmoud's habeas case," Brett Max Kaufman, senior counsel with the ACLU's Center for Democracy, [said in a statement](#). "We will continue to use all legal levers available to protect our client and defend the First Amendment against this cruel and relentless campaign." We wish them luck. No matter what you think of Mr.

Khalil, an email from the Secretary of State should not serve as a *de facto* deportation order.