

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 92-4410

(Summary Calendar)

GEORGE CLAUD HANNA-MARQUEZ,

Petitioner,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order
of the Board of Immigration Appeals
(A29 077 491)

(December 1, 1992)

Before GARWOOD, JONES, and EMILIO M. GARZA, Circuit Judges.

EMILIO M. GARZA, Circuit Judge:*

George Claud Hanna-Marquez, a native and citizen of Panama, appeals a final order of the Board of Immigration Appeals ("the BIA"), denying his application for asylum in the United States. Finding substantial evidence to support the BIA's decision, we affirm.

* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

I

Hanna-Marquez was a member of the political party headed by former Panamanian President Manuel Noriega. He was also a member of two other pro-Noriega organizations))the Dignity Battalion and the Nube Negra ("the Black Cloud"). As a member of the Dignity Battalion, Hanna-Marquez participated in attacks on anti-Noriega demonstrators. As a member of the clandestine Black Cloud, he also participated in night-time raids to destroy the printing presses and copying facilities of rival political organizations.

Hanna-Marquez alleges that he came to disagree with the tactics employed by these groups, and consequently, stopped participating in these groups' activities. He eventually decided to leave Panama, and enter the United States, because he believed that his former comrades might try to harm him for not continuing in their activities.

As a non-immigrant visitor, Hanna-Marquez was authorized to remain in the United States until February 1990. In April 1991, the Immigration and Naturalization Service ("the INS") issued an Order to Show Cause charging Hanna-Marquez to be deportable from the United States, for overstaying his visit. Thereafter, Hanna-Marquez applied for asylum, claiming that: (a) the new government in Panama might prosecute him for the crimes committed by his former comrades; (b) his former comrades might silence him because of information he possesses about their activities; and (c) his former comrades might punish him for being a traitor.

The immigration judge denied the application for asylum, finding that Hanna-Marquez's stated grounds for asylum, even if true, would not constitute persecution on account of political opinion, or any of the other factors required by statute.¹ On appeal, the BIA affirmed the immigration judge's decision.

Hanna-Marquez contests the BIA's order affirming the denial of asylum, arguing that the BIA's determination was not based on substantial evidence. He specifically contends that he presented evidence proving a well-founded fear of persecution because of his political opinion.

II

A

The BIA's determination that an alien is not eligible for consideration for asylum is a factual conclusion, which we review only to determine whether it is supported by substantial evidence. *Zamora-Morel v. INS*, 905 F.2d 833, 838 (5th Cir. 1990). "As long as the [BIA's] conclusion is substantially reasonable, we cannot reverse the finding simply because we disagree with the [BIA's] evaluation of the facts." *Castillo-Rodriguez v. INS*, 929 F.2d 181, 184 (5th Cir. 1991). An applicant seeking reversal of a BIA asylum

¹ The Immigration and Nationality Act "authorizes the Attorney General, in his discretion, to grant asylum to an alien who is a "refugee" as defined in the Act, *i.e.*, an alien who is unable or unwilling to return to his home 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." *INS v. Elias Zacarias*, ___ U.S. ___, 112 S. Ct. 812, 815, 117 L. Ed. 2d 38 (1992) (quoting 8 U.S.C. § 1101(a)(42)(A) (1988)).

determination "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." *Elias Zacarias*, 112 S. Ct. at 817 (1992).

B

The single issue before us is whether the BIA's order denying asylum))due to Hanna-Marquez's failure to establish a well-founded fear of persecution based on his *political opinion*))was based on substantial evidence. Though Hanna-Marquez's stated grounds for asylum are based on conditions having political implications))namely, the fall of the Noriega government in Panama))these political implications do not rise to the level of political opinion within the meaning of the Immigration and Nationality Act. See *Campos-Guardado v. INS*, 809 F.2d 285, 290 (5th Cir. 1987) ("The issue reduces to whether the political implications underlying an alien's fear of harm rise to the level of 'political opinion' within the meaning of the [Immigration and Nationality Act]").

To establish a well-founded fear of persecution based on his political opinion, Hanna-Marquez had to prove that the motives of his alleged persecutors are specifically political. See *Elias-Zacarias*, 112 S. Ct. at 816 ("[T]he mere existence of a generalized 'political' motive . . . is inadequate to establish . . . the proposition that [the alien] fears persecution on account of political opinion"). For example, in *Elias-Zacarias*, the respondent refused to join a guerrilla organization in Guatemala.

See *id.* at 814. The respondent eventually fled to the United States, where he sought asylum. See *id.* at 814-15. In support of his application for asylum, respondent testified that he feared the guerrillas would harm him for not joining them. See *id.* The Court held that the respondent's testimony showed persecution on account of his refusal to fight with the guerrillas, rather than because of his political opinion. See *id.* at 816. Accordingly, the Court upheld the BIA's determination that asylum was improper.

Similarly, Hanna-Marquez has not proven a well-founded fear of persecution because of his political opinion. Hanna-Marquez testified that he feared the new government in Panama might criminally prosecute him because he had been a member of groups which engaged in killings and beatings. See Record on Appeal at 100. This would constitute criminal prosecution because of past crimes, and not persecution based on political opinion. See *Castillo-Rodriguez*, 929 F.2d 181, 185 (5th Cir. 1991) (criminal prosecution does not constitute persecution on account of political opinion); *Perlera-Escobar v. Executive Office for Immigration*, 894 F.2d 1292, 1297 (11th Cir. 1990) (punishment for one's former association with guerrillas does not constitute persecution on account of political opinion).

Hanna-Marquez also testified that he feared his former comrades might try to injure him because of the knowledge that he obtained about their operations, and their need to punish deserters for the sake of internal discipline. See Record on Appeal at 102-03, 174. Again, this would not constitute persecution on the basis

of political opinion. *See Perlera-Escobar*, 894 F.2d at 1298 ("The BIA's determination that the need to discipline and silence deserters is not persecution on account of 'political opinion' within the meaning of the Act"). Thus, Hanna-Marquez has not offered evidence,² compelling or otherwise, establishing a well-founded fear of persecution because of his political opinion. Accordingly, we find that the BIA's decision was supported by substantial evidence.

III

For the foregoing reasons, we **AFFIRM**.

² Hanna-Marquez also submitted his own affidavit, see Record on Appeal at 173-75, and a letter from his mother in Panama. See Record on Appeal at 154-55. Neither adds significantly to his sworn testimony.