IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-5082

Summary Calendar

RUBEN ITURREZ-SENNEVILLE,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order of the
Immigration and Naturalization Service
(INS A71 895 360)

(May 6, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:[*]

The Immigration and Naturalization Service instituted deportation proceedings against Ruben Iturrez-Senneville in April 1992. The Service contended that Iturrez-Senneville was deportable: first, pursuant to 8 U.S.C. § 1251(a)(1)(C)(i) because he had lost his nonimmigrant status; and, second, pursuant to 8 U.S.C. § 1251(a)(2)(A)(ii) because he had been convicted of two or

---

[*]Local Rule 47.5 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

more crimes involving moral turpitude. An Immigration Judge in the Department of Justice concluded that the Service can deport Iturrez-Senneville, and that Iturrez-Senneville is not entitled either to political asylum or to withholding of deportation. Iturrez-Senneville appealed to the Board of Immigration Appeals, which affirmed. Iturrez-Senneville appeals. We AFFIRM.

I.

Iturrez-Senneville first asserts that the INS lacks a basis to deport him. Iturrez-Senneville secured a visa to enter the United States as a result of his employment with the United Nations. He ceased working for the United Nations in 1992. The change in Iturrez-Senneville's status provides suitable grounds for deportation pursuant to 8 U.S.C. § 1251(a)(1)(C)(i). At different points in the proceedings, Iturrez-Senneville has contested the precise date on which his employment with the United Nations terminated, the reason for its discontinuation, and the location of his entry into the United States. Which issue or issues he raises on appeal is unclear, and unimportant. The INS provided documentary evidence that the Secretary of State no longer recognizes Iturrez-Senneville as entitled to nonimmigrant status. Deportation is therefore appropriate.[1]

Alternatively, the INS presented evidence that Iturrez-Senneville plead nolo contendere to 35 counts of fraudulent use of a credit card, 31 counts of grand theft, and 4 counts of petit theft. Convictions for two crimes involving moral turpitude and

[1] See 8 U.S.C. § 1251(a)(1)(C)(i).

not arising from a single scheme of criminal misconduct provide an adequate basis for deportation.[2] A plea of nolo contendere constitutes a conviction for the purposes of deportation,[3] fraudulent acts involve moral turpitude,[4] and independent instances of the improper use of a credit card do not fall within a single scheme of criminal misconduct.[5] Iturrez-Senneville argues, however, that the INS failed to establish that his convictions were final and that they were attended by the necessary punishment to support deportation. As Iturrez-Senneville's loss of his status as a nonimmigrant provides independent grounds to affirm, we do not address the adequacy of the legal and factual bases of these arguments.

II.

Iturrez-Senneville contends that he is entitled to political asylum.[6] To prevail on this claim, he must establish that he has a well-founded fear of persecution.[7] Because of his status as a

---

[2] See 8 U.S.C. § 1251(a)(2)(A)(ii)

[3] See Yazdchi v. INS, 878 F.2d 166, 167 (5th Cir.), cert. denied, 493 U.S. 978 (1989); Qureshi v. INS, 519 F.2d 1174, 1176 (5th Cir. 1975).

[4] See Jordan v. De George, 341 U.S. 223, 227-32 (1951).

[5] See Iredia v. INS, 981 F.2d 847, 849 (5th Cir.), cert. denied, 114 S.Ct. 203 (1993).

[6] Our rejection of this assertion provides a sufficient basis for concluding that Iturrez-Senneville cannot meet the higher standards for withholding of deportation. See Farzad v. INS, 802 F.2d 123, 125 (5th Cir. 1986).

[7] See Zamora-Morel v. INS, 905 F.2d 833, 837 (5th Cir. 1990).

homosexual and his participation in various homosexual activist groups, Iturrez-Senneville asserts that he has been subject in the past and will be subject in the future to persecution by the Argentine government. The Immigration Judge and the Board of Immigration Appeals rejected this claim.

We must defer to this conclusion unless "the evidence [Iturrez-Senneville] presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution."[8] When asked by the Immigration Judge whether he feared persecution in Argentina, Iturrez-Senneville answered, "Not directly." He later asserted that he had been arrested on occasion and had suffered psychological abuse at the hands of the state. Iturrez-Senneville also made general claims about the plight of homosexuals in Argentina and vague assertions that he had angered people in "high positions" in the Argentine government. The Immigration Judge and Board of Immigration Appeals found Iturrez-Senneville's internally inconsistent and nebulous testimony dubious and denied him political asylum. We do not find ourselves compelled to disagree with this result.

III.

Iturrez-Senneville raises a series of due process claims. Iturrez-Senneville must show substantial prejudice to attack successfully his deportation hearing.[9] Iturrez-Senneville asserts that the INS did not allow him access to counsel, did not provide

---

[8] INS v. Elias-Zacarias, 112 S.Ct. 812, 817 (1992).

[9] See Patel v. INS, 803 F.2d 804, 807 (5th Cir. 1986).

him an adequate translator, and committed various other violations of its own rules and regulations.

The INS provided Iturrez-Senneville a list of attorneys who might represent him. The first three times that Iturrez-Senneville arrived at his hearing without counsel, the Immigration Judge allowed a continuance. On the fourth occasion, after Iturrez-Senneville repeated his claim that he had a lawyer but was unable to contact him, the judge required the parties to proceed. Iturrez-Senneville now claims that the list of lawyers INS provided him was inadequate. As he did not use the list, he could not have suffered any prejudice.

The INS also provided Iturrez-Senneville a translator. He asserts on appeal that the translator did not perform satisfactorily. Review of the record belies this assertion. In general, the participants in the hearing communicated effectively, with Iturrez-Senneville responding directly to the statements made and questions asked by others. On the few occasions where there was some misunderstanding, a request for clarification quickly cured the problem.

Iturrez-Senneville asserts that he was subject to coercion, was unaware of his rights, and in general did not have the benefit of fair hearing. He provides an insufficient factual basis to support of any of these general claims. Moreover, were we to accept these claims, he provides no reason to believe that the

Immigration Judge or Board of Immigration Appeals would have decided his case differently.[10]

IV.

As a final matter, Iturrez-Senneville has made a renewed motion to hold his appeal in abeyance and to remand to the Board of Immigration Appeals. Iturrez-Senneville may move the Board to reopen his case pursuant to 8 C.F.R. § 3.2. If he does so, the decision to reopen the case will fall within the Board's discretion.[11] The Board or district director may further grant petitioner a stay pending resolution of his motion.[12] We will not override these administrative procedures.[13] Iturrez-Senneville's motion is denied.

AFFIRMED.

---

[10] See id.

[11] See INS v. Jong Ha Wang, 450 U.S. 139, 143 n. 5 (1981).

[12] 8 C.F.R. §§ 3.8(a), 243.4.

[13] See Farzad v. INS, 808 F.2d 1071, 1072 (5th Cir. 1987) (refusing to provide judicial relief duplicative of administrative remedy available to target of deportation).