

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-40245

Summary Calendar

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RUBEN A. ITURREZ-SENNEVILLE,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

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

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(September 14, 1994)

Before KING, GARWOOD, and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:\*

The Immigration and Naturalization Service (INS) began deportation proceedings against Ruben Iturrez-Senneville in April 1992. INS argued that Iturrez-Senneville was deportable under 8 U.S.C. § 125(a)(1)(C)(i) because he had lost his nonimmigrant status and under 8 U.S.C. § 1251(a)(2)(A)(ii) because he had been convicted of two or more crimes involving moral turpitude. An

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\*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

immigration judge concluded that Iturrez-Senneville is deportable and that he is not entitled to political asylum or to withholding of deportation. The Board of Immigration Appeals (BIA) affirmed, and this court affirmed. Iturrez-Senneville then made a motion to the BIA to reopen the issues of asylum and withholding of deportation, claiming that he had newly discovered evidence. The BIA denied the motion.

The only "new" documents to which Iturrez-Senneville points to establish a well founded fear of persecution are the following items: 1) a letter from an official at Amnesty International stating that people arrested for being homosexual are "prisoners of conscience," but noting that "I haven't seen a document yet concerning the ill-treatment or imprisonment of gays in Argentina"; 2) BIA cases in which homosexuals from Cuba and Brazil were granted asylum; 3) a Canadian decision not to deport an Argentinean homosexual; 4) newspaper articles describing mistreatment of Argentinean prisoners with AIDS, Argentina's refusal to legalize AIDS advocacy and homosexual groups, and murders of several homosexuals; 5) newspaper articles describing generalized allegations of police brutality and authoritarianism not directed at homosexuals; and 6) correspondence documenting Iturrez-Senneville's search for information. With the exception of a few articles about authoritarianism and some of the correspondence, all of these documents predate the earlier BIA decision.

We review decisions not to reopen asylum and deportation proceedings for abuse of discretion. INS v. Doherty, 112 S. Ct.

719, 725 (1992). Iturrez-Senneville has shown no abuse of discretion. None of this new evidence is strong. Indeed, the letter from the Amnesty International official undermines his claim, in that the official "ha[s]n't seen a document yet concerning the ill-treatment or imprisonment of gays in Argentina." Moreover, Iturrez-Senneville has offered no reason why he could not have introduced this evidence at his initial deportation hearing. Nothing in the nature of his confinement prevented him from writing letters and gathering this information. Under 8 C.F.R. § 3.2 (1994), the BIA may reject a motion to reopen because a movant has not introduced previously unavailable, material evidence. Because the BIA has not abused its discretion, the decision of the BIA is AFFIRMED.