UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 94-40327
Summary Calendar

FEDERICO RANGEL,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals

(A91 605 723)

(September 28, 1994)

Before POLITZ, Chief Judge, JOLLY and BENAVIDES, Circuit Judges.

POLITZ, Chief Judge:[*]

Federico Rangel seeks review of a deportation order by the Board of Immigration Appeals. Finding the order supported by substantial evidence, we deny review.

Background

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 Pursuant to that Rule, the court has determined that this opinion should not be published.**

On March 15, 1992 Rangel, a citizen of Mexico and a lawful permanent resident, was apprehended by the Border Patrol while a passenger in a van transporting seven undocumented aliens to Dallas, Texas. Rangel gave a sworn statement to the agents attesting that two days before he had entered the United States with the undocumented aliens, and that he was involved in a scheme to recruit the aliens for labor in Dallas. An Order to Show Cause was issued by the Immigration and Naturalization Service alleging that Rangel entered the United States without inspection, an offense that, if proven, would subject him to deportation under 8 U.S.C. § 1251(a)(1)(B). The INS subsequently charged that he was an alien who, prior to or at the time of entry, or within five years of the entry, knowingly encouraged, induced, assisted, abetted, or aided other aliens to enter or try to enter the United States illegally, a violation of 8 U.S.C. § 1251(a)(1)(E)(i).

During the initial deportation hearing, the immigration judge concluded that the INS had failed to demonstrate Rangel's deportability by clear and convincing evidence. The BIA reversed, finding that the INS had met its burden and ordered his deportation. The instant petition for review followed.

Analysis

Rangel claims that both his testimony and that of the witnesses he offered contradicted the INS evidence which, as a result, did not show deportability by "clear, unequivocal, and convincing evidence."[1] We are not persuaded. When factual

[1]Woodby v. I.N.S., 385 U.S. 276, 277 (1966).

questions are presented we review the BIA's decision to determine whether its findings are supported by substantial evidence.[2] Even were we to disagree with the BIA's findings, to obtain reversal Rangel must show that "the evidence he presented was so compelling that no reasonable factfinder could fail to arrive at his conclusion."[3] This he has failed to do; the record abundantly supports the finding that Rangel committed the charged offenses.

The INS elicited testimony from two of the agents involved in the seizure who stated that Rangel had confessed to both the illegal recruitment and illegal entry into the United States. The INS introduced into evidence the reports contemporaneously completed by the agents. Rangel questions the reliability of the records compiled by the agents at the time of his seizure and introduced during his deportation hearing. This claim is without merit. We have held that these records, standing alone, are sufficiently trustworthy to make a *prima facie* case for deportability.[4] Rangel denied the charges, claiming instead that he had lied to the agents at the time of the execution of the initial report forms and that he had never left or reentered the country on the dates in question. He testified that the aliens were acquaintances that he had met while visiting a sick friend and that he was not involved in their illegal entry. He also offered

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[2]Silwany-Rodriguez v. I.N.S., 975 F.2d 1157 (5th Cir. 1992).

[3]Id., at 1160, citing I.N.S. v. Elias-Zacarias, _____ U.S. _____, 112 S.Ct. 812 (1992).

[4]See Bustos-Torres v. I.N.S., 898 F.2d 1053 (5th Cir. 1990).

testimony that he had been seen in Dallas the day before the seizure in question. Finally, he introduced his paychecks for the pay periods for the dates in question, ostensibly to show that he had been working in the United States during those dates.

The BIA noted that Rangel failed to produce affidavits from co-workers, friends, neighbors, or family members attesting to his presence in the country, and he failed to produce any evidence to corroborate the existence of the sick friend or any other material aspect of his version of the events. The BIA also observed that the paychecks did not indicate the time periods covered, offering little if any evidence that Rangel was in the United States during the critical dates. Further, the paycheck issued the week of the charged incident was for an amount substantially less than usual, indicating that Rangel had worked less than usual that week.

We must conclude that the record contains substantial evidence in support of the BIA's decision.

Finally, Rangel challenges certain evidentiary rulings of the immigration judge. He first complains that the judge erroneously refused to admit affidavits from two of the aliens. He also challenges the immigration judge's admission of a "Narrative" produced by the agents from statements given at the time of the seizure detailing the events leading up to the seizure, including the illegal recruitment and entry. Rangel did not object to these evidentiary rulings in his appeal to the BIA and we may not consider them on this review.[5] The remaining claims have no merit.

[5]Peirre v. I.N.S., 932 F.2d 418 (5th Cir. 1991).

The petition for review is therefore DENIED.