

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-41184  
(Summary Calendar)

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CRUZ BENAVIDES-DIAZ,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION  
SERVICE,

Respondent.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
(A29-952-327)

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(June 2, 1995)

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:\*

Cruz Benavides-Diaz appeals the decision of the Board of Immigration Appeals (BIA) which affirmed the denial of his application for asylum.<sup>1</sup> Finding no error, we affirm.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

<sup>1</sup> We address herein only the issues raised before the BIA because we have no jurisdiction to consider issues not raised to the BIA. See Ozdemir v. I.N.S., 46 F.3d 6, 8 (5th Cir. 1994). Petitioner's request for remand to the BIA for it to consider his new claim of ineffective assistance of counsel is denied.

## STANDARD OF REVIEW

In immigration cases, we are authorized to review only the decision of the BIA, not that of the immigration judge. Ogbemudia v. I.N.S., 988 F.2d 595, 598 (5th Cir. 1993) (footnote omitted). The BIA conducts a de novo review of the administrative record, and we consider the errors of the immigration judge only to the extent they affect the BIA decision. Id. In this case, the BIA specifically adopted the credibility findings of the immigration judge; therefore, we may review the findings of the immigration judge. Chun v. I.N.S., 40 F.3d 76, 78 (5th Cir. 1994). We may not reverse an immigration judge's finding that the petitioner was not credible unless it is compelled by the evidence. Id. at 79.

## DISCUSSION

Cruz Benavides-Diaz is a native and citizen of Honduras. He entered the United States on foot, on or about October 27, 1990 near Brownsville, Texas. When he was detained by agents of the Immigration and Naturalization Service (INS), Benavides-Diaz presented a friend's Mexican birth certificate and claimed that he was a citizen of Mexico because he feared being returned to Honduras. The INS instituted deportation proceedings against him, alleging that he had entered the United States without inspection, in violation of 8 U.S.C. § 1251(A)(2). Benavides-Diaz admitted deportability and applied for asylum and withholding of deportation under 8 U.S.C. §§ 1158 and 1253. At the hearing on his application, Benavides-Diaz testified that he was a member of the National Party but had infiltrated the Liberal Party as a spy. He

also testified that he was a member of a Catholic youth group and that Honduras is primarily a Catholic country. The Liberal Party had the political power at the time. He detailed specific instances of imprisonment for one to two days, and of violence against him at the hands of members of the "Alpha Omega", a non-Catholic Bible-carrying group that was allied with the police and the Liberal Party. Some of the instances he described occurred during late 1989 and early 1990 and were due either to his involvement in a nine-member Catholic youth organization or to his refusal to renounce the Catholic "movement" and join the Alpha Omega organization. Evidence was also presented which indicated that in 1989 the National Party candidate for president was elected, along with a majority of National Party candidates in the legislature, and took office in January 1990. There was also evidence that religious freedom is practiced in Honduras.

Following the hearing, the immigration judge found that the testimony of Benavides-Diaz was not credible and denied the request for asylum and withholding of deportation. The immigration judge also determined that even assuming, arguendo, that the testimony established past persecution, Benavides-Diaz had failed to establish a reasonable fear of future persecution. On appeal to the BIA, Benavides-Diaz contended that he had in fact established that he had a reasonable fear of persecution, that substantial evidence supports his application for asylum, and that there was no indication that the immigration judge did not find his fears to be genuine. The BIA agreed with the immigration judge's determination

that Benavides-Diaz' testimony was not credible. The board also found that the evidence does not support a finding "that the government, the police or their supporters have sought to persecute him in the past, or that he has a well-founded fear of persecution should he return to Honduras."

The reasons discussed by the BIA in its written decision are grounded in the evidence of record. The record is unclear whether the alleged instances of imprisonment or violence occurred because Benavides-Diaz was part of a Catholic "movement", because he was a supporter of the National Party, or because he refused to join the Alpha Omega. "The Supreme Court requires a petitioner for asylum to prove that a group in his country will persecute him because of his political opinion." Ozdemir v. I.N.S., 46 F.3d 6, 8 (5th Cir. 1994), citing I.N.S. v. Elias-Zacarias, 502 U.S. 478, 112 S.Ct. 812, 816, 117 L.Ed.2d 38 (1992). Although more than one conclusion could be drawn from the evidence, the record does not compel a decision contrary to the BIA's determination. Because the BIA's decision is sufficiently supported by the evidence, that decision is AFFIRMED.