

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-5306
Summary Calendar

CHUMBON WILLIAM NCHINDA,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order of the
Immigration and Naturalization Service
(A28 445 942)

(June 25, 1993)

Before JOLLY, BARKSDALE, and E. GARZA, Circuit Judges.

PER CURIAM:*

Chumbon William Nchinda appeals from an order of the Board of Immigration Appeals, contending that he demonstrated his eligibility for asylum. Because the denial of asylum is supported by substantial evidence, we AFFIRM.

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

I

Nchinda, a citizen of Cameroon, entered the United States on July 24, 1987, as a nonimmigrant student. On August 14, 1989, his status was adjusted to that of conditional permanent resident. In May 1992, Nchinda pleaded guilty to possession of 1.5 grams of cocaine, in violation of South Carolina law. He was sentenced to six months imprisonment.

On May 22, 1992, the INS commenced deportation proceedings against Nchinda on the basis of the controlled substances conviction. An immigration judge found him deportable, and ordered him deported to Cameroon. Nchinda subsequently applied for asylum,¹ alleging fear of reprisal or death at the hands of a Nigerian drug ring,² some of the members of which were convicted in the United States in 1990, on the basis of evidence he provided to the authorities.

At the hearing on his asylum application, Nchinda testified that he did not fear persecution by the government of Cameroon, but instead by the Nigerians against whom he provided incriminating evidence, or their associates. According to Nchinda, the Nigerians are of members an extensive illegal narcotics organization based in the United States, and operated in both Nigeria and the United

¹An application for asylum is simultaneously considered as a request for withholding of deportation. See Ramirez-Osorio v. INS, 745 F.2d 937, 941 (5th Cir. 1984).

²Nigeria borders Cameroon.

States. He claimed that members of that organization would find him and kill him if he returned to Cameroon. He also testified that members of that organization had threatened his wife in the United States and his brother in Cameroon. Nchinda acknowledged, however, that Cameroon had a police force which could protect him.

The immigration judge found that Nchinda had failed to demonstrate that he had a well-founded fear of persecution in Cameroon, and denied the application for asylum or withholding of deportation. The Board of Immigration Appeals affirmed the immigration judge's decision and dismissed Nchinda's appeal.

II

Nchinda contends that the Board's decision is not supported by substantial evidence, and that he demonstrated his eligibility for asylum based upon a well-founded fear of persecution by the Nigerian drug gang.

An applicant for asylum has the burden of demonstrating that he is unable to return to his native 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." Castillo-Rodriguez v. INS, 929 F.2d 181, 184 (5th Cir. 1991) (quoting 8 U.S.C. § 1101(a)(42)). If the applicant fears persecution by a particular group rather than the government, he must show that the group is one that "the government is unable or unwilling to control." Adebisi v. INS, 952 F.2d 910, 913-14 (5th Cir. 1992).

We review the Board's determination regarding statutory eligibility for asylum only to determine whether it is supported by substantial evidence. In order to obtain reversal, Nchinda "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." INS v. Elias-Zacarias, ___ U.S. ___, 112 S. Ct. 812, 817 (1992).

The Board found that Nchinda's fear of returning to Cameroon was based on a personal dispute, rather than on account of race, religion, nationality, membership in a particular social group, or political opinion. The Board also found that Nchinda had failed to demonstrate that the government of Cameroon was unable or unwilling to control the Nigerian drug gang. The Board's conclusion that Nchinda failed to demonstrate his entitlement to asylum or withholding of deportation is supported by substantial evidence in the record.

III

The order of the Board of Immigration Appeals is, therefore,

A F F I R M E D.