

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40727

Summary Calendar

ALEXIS FEYOU DE HAPPY,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order
of the Board of Immigration Appeals
A28 568 943

March 20, 1995

Before KING, JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

Alexis Feyou De Happy, a citizen of Cameroon, appeals the dismissal by the Board of Immigration Affairs of his petition requesting asylum and relief from deportation. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

De Happy is a thirty-six year old native and citizen of Cameroon. De Happy entered the United States as a non-immigrant visitor on or about February 2, 1985. He remained in the United States beyond the period permitted and, on March 9, 1988, the Immigration and Naturalization Service (INS) issued an order directing him to show cause why he should not be deported pursuant to Section 241(a)(2) of the Immigration and Nationality Act. 8 U.S.C. § 1251(a)(2).

On December 15, 1989, De Happy submitted an application requesting asylum and the withholding of deportation. He asserts that, if he is returned to Cameroon, he will be politically persecuted. Specifically, De Happy states that his father, Joseph de Happy, is a former cabinet-level government official who was removed from office following a coup in 1974. Following the coup, De Happy's father was given a less powerful, "semi-private" position which he held for several years before retiring to a village in Cameroon. In addition, shortly after the coup a close family friend, Monsignor Ndongmo, was arrested and exiled to Canada. De Happy's grandfather, who died in 1981, was the king of the Bana region of Cameroon. Due to a government decree issued in the 1960s designed to halt the dynastic tribal domination of certain regions of Cameroon, De Happy's father was unable to succeed as king of the Bana region.

De Happy claims that his fear of persecution stems from his family's political affiliation with the former government. He also asserts that, as a young student in Cameroon, he organized a

political group called the Uhuru Art Society, which sponsored plays and dances, followed by discussions about governmental censorship activities. Shortly after the Uhuru Art Society was formed, De Happy, then only seventeen or eighteen years old, was arrested for undisclosed reasons and released one or two hours later.

In 1978, De Happy left Cameroon for Paris, France, on the suggestion of his father, who believed that he would receive a better education in France and that he may be in danger if he stayed in Cameroon. After residing in France for six years, De Happy returned to Cameroon. Unfortunately, De Happy's homecoming coincided with an unsuccessful coup attempt led by Cameroonians who had also recently returned from France. One of the coup's participants, a former member of the Uhuru Art Society, was executed. De Happy claims that he went into hiding for several weeks, fearing that government officials would believe that he participated in the coup. After this brief period of hiding, De Happy stated that he "had to be careful," but could go out into the public, including working for his uncle, an art collector.

In 1985, De Happy arranged a visit to the United States, ostensibly to establish an art collection. He entered the United States as a non-immigrant visitor and decided to stay. Three years later, after being discovered by the INS, De Happy sought political asylum.

On December 10, 1990, an Immigration Judge (IJ) received testimony and denied De Happy's request for political asylum and

the withholding of deportability. De Happy appealed the IJ's decision to the Board of Immigration Appeals (BIA), which concurred in the IJ's conclusions, dismissed De Happy's appeal, and ordered De Happy to voluntarily depart the country. We affirm.

II. STANDARD OF REVIEW

An alien is eligible for asylum only if he can prove that he had a well-founded fear of persecution in his native country on account of his race, religion, nationality, membership in a particular social group, or political opinion. See 8 U.S.C. §§ 1101(a)(42)(A), 1158(a); Faddoul v. INS, 37 F.3d 185, 188 (5th Cir. 1994); Adebisi v. INS, 952 F.2d 910, 912 (5th Cir. 1992). To be eligible for withholding of deportation, an alien must prove that it is "more likely than not" that he would be subject to persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INS v. Stevic, 467 U.S. 407, 430 (1984).

Factual determinations regarding an alien's deportability and statutory eligibility for asylum must be upheld "if supported by reasonable, substantial, and probative evidence on the record considered as a whole" 8 U.S.C. § 1105a(a)(4); INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992); Faddoul, 37 F.3d at 188. Thus, we will not disturb the BIA's denial of asylum unless the petitioner can show "that the evidence he presented was so compelling that no reasonable factfinder could fail to find the

requisite fear of persecution." Elias-Zacarias, 502 U.S. at 483-84; Faddoul, 37 F.3d at 188.

III. ANALYSIS

To prove a "well founded fear of persecution," an applicant for asylum must prove both that he possessed a subjective fear and that his fear was objectively reasonable. Zamora-Morel v. INS, 905 F.2d 833, 837 (5th Cir. 1990); Sanchez-Trujillo v. INS, 801 F.2d 1571, 1579 (9th Cir. 1986). The IJ and the BIA in this case determined that De Happy had failed to establish an objectively reasonable basis for his fear of persecution. De Happy contests this factual determination, asserting that there is substantial evidence to support his claim of political persecution. We disagree.

While De Happy's father was removed from office following the coup which placed the current government in power, there is no evidence that his father was ever physically detained, harmed, or otherwise harassed. De Happy's father's fall from power appears to be the natural result of a political defeat, unaccompanied by persecution. The arrest and exile of his father's friend, Monsignor Ndongmo, while unfortunate, has not been followed by any actions directed against De Happy's father or De Happy's family. Indeed, De Happy's immediate family-- his mother, father, four sisters, and one brother-- are currently residing in Cameroon without physical restraint or economic deprivation.

De Happy's brief arrest at the age of seventeen or eighteen is unexplained; thus, there appears to be no factual nexus between the arrest and his involvement in the Uhuru Art Society. Likewise, the execution of a former member of the Uhuru Art Society who participated in the unsuccessful 1984 coup attempt cannot provide the basis for a well-founded fear of persecution. There is no evidence that the government currently in power believes that De Happy participated in the coup attempt. There is no evidence that the current government believes that the Uhuru Art Society instigated the coup or otherwise poses a threat. De Happy admits that he did not personally participate in the coup and that the Uhuru Art Society did not instigate the coup. Thus, there is no objective evidence of a causal connection between the execution of the former member of the Uhuru Art Society and his membership in the Society itself.

Under these circumstances, De Happy has failed to carry his burden of proving that he has an objectively reasonable basis for fearing persecution upon his return to Cameroon. His evidence is not "so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." Elias-Zacarias, 502 U.S. at 483-84. Accordingly, the decision of the BIA is AFFIRMED.