

United States Court of Appeals  
for the Fifth Circuit

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No. 20-60855  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

December 15, 2022

Lyle W. Cayce  
Clerk

JULIUS WAWA NJILA,

*Petitioner,*

*versus*

MERRICK GARLAND, *U.S. Attorney General,*

*Respondent.*

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Petition for Review of an Order of the  
Board of Immigration Appeals  
Agency No. A203 803 872

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Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

Julius Wawa Njila, a native and citizen of Cameroon, petitions us for review of the Board of Immigration Appeals (BIA) decisions denying (1) relief from removal; (2) relief from his motion to reconsider; and (3) relief from his motion to reopen.

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\* This opinion is not designated for publication. *See* 5TH CIRCUIT RULE 47.5.4.

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This court reviews the BIA’s decision and considers the Immigration Judge’s (IJ) decision only to the extent it influenced the BIA. *Singh v. Sessions*, 880 F.3d 220, 224 (5th Cir. 2018). Factual findings are reviewed for substantial evidence and legal determinations are reviewed *de novo*. *Lopez-Gomez v. Ashcroft*, 263 F.3d 442, 444 (5th Cir. 2001). Under the substantial evidence standard, this court may not overturn a factual finding unless the evidence compels a contrary result. *Martinez-Lopez v. Barr*, 943 F.3d 766, 769 (5th Cir. 2019).

We review the BIA’s denial of a motion to reconsider under the highly deferential abuse-of-discretion standard. *Hernandez-Castillo v. Sessions*, 875 F.3d 199, 203 (5th Cir. 2017). Under this standard, we may only overturn a BIA decision if it is “capricious, without foundation in the evidence, or otherwise so irrational that it is arbitrary rather than the result of any perceptible rational approach.” *Gomez-Palacios v. Holder*, 560 F.3d 354, 358 (5th Cir. 2009).

We are not compelled to hold that Njila has proven the elements of his past persecution asylum claim. The BIA’s denial of this claim is in line with the law of this circuit. *See Gjetani v. Barr*, 968 F.3d 393, 398 (5th Cir. 2020); *Tesfamichael v. Gonzales*, 469 F.3d 109, 117 (5th Cir. 2006); *Majid v. Gonzales*, 446 F.3d 590, 595 (5th Cir. 2006).

Njila argues that the BIA should have analyzed whether he demonstrated a pattern or practice of persecution as to his argument that he showed a reasonable fear of future persecution. He did not exhaust this claim before the BIA, and so we lack jurisdiction to address it. *See Martinez-Guevara v. Garland*, 27 F.4th 353, 359 (5th Cir. 2022).

We hold that the BIA did not properly analyze Njila’s fear of future persecution asylum claim in his original appeal or in the subsequent proceedings based on his motions. The original record and supplemental

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record both contain a variety of evidence that directly relates to the objective reasonability of Njila's fear, which is the only element standing between him and a successful claim. *See Lopez-Gomez v. Ashcroft*, 263 F.3d 442, 445 (5th Cir. 2001). The evidence appears to contradict several factual findings, such as the military not searching for Njila or being primarily interested in known Anglophone supporters, and Njila's family remaining safe in their home. Additionally, the findings on relocation do not appear to take into account that Njila testified that he was only able to move and live safely because he was in hiding. *See Singh v. Sessions*, 898 F.3d 518, 522 (5th Cir. 2018). Both the initial appeal and the motions contain extensive evidence that Njila's fear is reasonable and that the Cameroonian Government is actively seeking him out.

We further conclude that the evidence submitted with the motion to reopen is apparently of the type that would be required to show that country conditions have worsened, so the rejection of this variety of evidence for lack of specificity appears erroneous. We also note that in its final order the BIA has misinterpreted our precedent by citing *Eduard v. Ashcroft*, 379 F.3d 182, 190 (5th Cir. 2004), to hold that Njila's fear of persecution cannot be based solely on general violence or civil disorder.

Our decision there is that general conditions of strife or danger, without a causal basis rooted in a protected ground, are not properly the basis of a claim for statutory fear of future persecution. That condition does not exist here, as the IJ found Njila was harmed because of a protected ground. Accordingly, the Board's cursory rejection of this evidence and reliance on questionable factual conclusions is an abuse of discretion that requires a detailed explanation of why this evidence does or does not prove Njila's claim of fear of future persecution both in the context of his original appeal and his subsequent motion to reopen.

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We are not compelled to hold that Njila has proven that he will, more likely than not, be tortured upon removal. *See Qorane v. Barr*, 919 F.3d 904, 911 (5th Cir. 2019).

As to the past persecution and Convention Against Torture claims, the petitions for review are DENIED. As to the claim that Njila proved his future persecution claim by showing a pattern or practice of persecution, the petitions for review are DISMISSED. The petitions for review are GRANTED as to whether the evidence of record on appeal and in conjunction with the motion to reopen demonstrate a reasonable fear of future persecution, and the matter is REMANDED to the BIA for further proceedings.