

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Pena-Montes v. Garland

No. 20-9569, United States Court of Appeals for the Tenth Circuit (April 29, 2021)

SUMMARY

****Pena-Montes v. Garland, 10th Cir. 2021 (unpublished)**** – Immigration; withholding of removal; Convention Against Torture (CAT); credibility determination; substantial evidence standard. The Tenth Circuit denied a petition for review, holding that substantial evidence supported the immigration judge's adverse credibility finding based on inconsistencies between the petitioner's written declarations and hearing testimony, implausible accounts of a shooting, and lack of corroborating medical records. Because the credibility finding was conclusive, the court affirmed the denial of withholding of removal and CAT relief without reaching alternative grounds.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Mary Beck Briscoe; Harris L. Matheson; Joel M. Carson III
JURISDICTION	Federal
DECIDED	April 29, 2021
DOCKET	20-9569
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of BIA decision
STANDARD OF REVIEW	Substantial evidence; we review the BIA's factual findings for substantial evidence, viewing them as conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.
PRECEDENTIAL VALUE	unpublished
PARTIES	Marcos Emanuel Pena-Montes v. Merrick B. Garland, United States Attorney General

TOPICS

immigration

removal proceedings

asylum

standard of review

evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether substantial evidence supports the IJ's adverse credibility determination.

HOLDINGS

1. Substantial evidence supports the IJ's adverse credibility finding because the inconsistencies and implausibilities in Petitioner's testimony, along with the lack of corroborating evidence, provide specific and cogent reasons for the finding.

KEY QUOTATIONS

"We review the BIA's factual findings "only for substantial evidence, viewing them as conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary."" (at 5)

"But while these arguments may have supported a finding that Petitioner's testimony was credible, they do not establish that any reasonable adjudicator would be compelled to make such a finding." (at 6)

FACTUAL BACKGROUND

Petitioner, a native and citizen of Mexico, entered the United States in 2010 and was later charged with removability. He applied for withholding of removal and CAT relief, describing two shooting incidents in Mexico in 2009. The IJ found his testimony not credible due to inconsistencies in his declarations and testimony, implausibility of his account, and lack of corroborating evidence.

PROCEDURAL HISTORY

Petitioner sought withholding of removal and CAT relief. The IJ denied relief based on adverse credibility finding. The BIA dismissed the appeal, affirming the IJ's decision.

DISPOSITION

affirmed

CASES CITED

- Escobar-Hernandez v. Barr, 940 F.3d 1358 (10th Cir. 2019)
- Htun v. Lynch, 818 F.3d 1111 (10th Cir. 2016)
- Martinez-Perez v. Barr, 947 F.3d 1273 (10th Cir. 2020)