

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Leal v. Garland

No. No. 19-60669, United States Court of Appeals for the Fifth Circuit (March 29, 2021)

SUMMARY

In this unpublished Fifth Circuit immigration case, the court held that it lacked jurisdiction to review the petitioner's adverse credibility challenge because he failed to exhaust administrative remedies by raising it in a motion to reconsider before the Board of Immigration Appeals. On the merits, the court found that the harm described did not compel a finding of past persecution, and the petitioner failed to show a reasonable fear of future persecution or that internal relocation was impossible. The court also dismissed the withholding of removal claim as unexhausted, denying the petition in part and dismissing in part for want of jurisdiction.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	King; Smith; Wilson
JURISDICTION	Federal
DECIDED	March 29, 2021
DOCKET	No. 19-60669
DISPOSITION	other
PROCEDURAL POSTURE	Petition for Review of an Order of the Board of Immigration Appeals
STANDARD OF REVIEW	substantial evidence
PRECEDENTIAL VALUE	Unpublished
PARTIES	Yoel Alonso Leal v. Merrick Garland, U.S. Attorney General

TOPICS

- immigration
- asylum
- deportation
- removal proceedings
- exhaustion of remedies
- appellate jurisdiction

PRACTICE AREAS

- Immigration Law

QUESTIONS PRESENTED

1. Whether the court has jurisdiction to review the credibility challenge given failure to exhaust administrative remedies
2. Whether substantial evidence compels a finding of past persecution
3. Whether substantial evidence compels a finding of future persecution
4. Whether the court has jurisdiction to review the withholding of removal claim due to failure to exhaust

HOLDINGS

1. The court lacks jurisdiction because Leal did not exhaust administrative remedies by raising the credibility challenge in a motion to reconsider.
2. The harm described by Leal does not compel a finding of statutory persecution.
3. Leal has not offered evidence that would compel a finding of future persecution, and internal relocation negates a reasonable fear.
4. The court lacks jurisdiction because Leal did not present the argument to the BIA, so it is unexhausted.

FACTUAL BACKGROUND

Leal, a native and citizen of Cuba, sought asylum and withholding of removal. He alleged past persecution and fear of future persecution. The BIA declined to affirm the adverse credibility finding but still denied relief. The harm Leal described was not extreme conduct, and he failed to show inability to relocate within Cuba.

PROCEDURAL HISTORY

Leal, a Cuban native and citizen, petitioned for review of the Board of Immigration Appeals (BIA) order of removal. The BIA declined to affirm the immigration judge's adverse credibility finding but still denied relief. Leal challenged the credibility finding and asylum claim. The BIA order was the final administrative decision.

DISPOSITION

other

CASES CITED

- Vazquez v. Sessions, 885 F.3d 862, 868-69 (5th Cir. 2018)
- Omari v. Holder, 562 F.3d 314, 321 (5th Cir. 2009)
- Tesfamichael v. Gonzales, 469 F.3d 109, 116 (5th Cir. 2006)
- Orellana-Monson v. Holder, 685 F.3d 511, 518 (5th Cir. 2012)
- Chen v. Ashcroft, 381 F.3d 221, 234-35 (5th Cir. 2004)
- Lopez-Gomez v. Ashcroft, 263 F.3d 442, 444-45 (5th Cir. 2001)
- Faddoul v. INS, 37 F.3d 185, 188-89 (5th Cir. 1994)