

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)

OPINION

PER CURIAM.

Case: 19-60669 Document: 00515800275 Page: 1 Date Filed: 03/29/2021 United States Court of Appeals for the Fifth Circuit United States Court of Appeals Fifth Circuit FILED No. 19-60669 March 29, 2021 Summary Calendar Lyle W. Cayce Clerk Yoel Alonso Leal, Petitioner, versus Merrick Garland, U.S. Attorney General, Respondent. Petition for Review of an Order of the Board of Immigration Appeals No. A 215 950 092 Before King, Smith, and Wilson, Circuit Judges.

Per Curiam:* Yoel Leal, a native and citizen of Cuba, petitions for review of his order of removal. He contends that the immigration judge's adverse credibility finding is not supported by substantial evidence. He further avers that * Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit Rule 47.5.4.

Case: 19-60669 Document: 00515800275 Page: 2 Date Filed: 03/29/2021 No. 19-60669 substantial evidence indicates the elements of his asylum claim have been fulfilled. The Board of Immigration Appeals declined to affirm the adverse credibility finding. Leal, however, did not exhaust administrative remedies as to his credibility challenge by raising it in a motion to reconsider, and we lack jurisdiction to address that challenge.

See *Vazquez v. Sessions*, 885 F.3d 862, 868–69 (5th Cir. 2018); *Omari v. Holder*, 562 F.3d 314, 321 (5th Cir. 2009). Persecution for purposes of a past-persecution-asylum claim must be extreme conduct. *Tesfamichael v. Gonzales*, 469 F.3d 109, 116 (5th Cir. 2006); see also *Orellana-Monson v. Holder*, 685 F.3d 511, 518 (5th Cir. 2012). Harm analogous to what Leal described does not compel a finding of statutory persecution.

See *Chen v. Ashcroft*, 381 F.3d 221, 234–35 (5th Cir. 2004); *Tesfamichael*, 469 F.3d at 117. Asylum can also be based on a reasonable fear of future persecution. *Lopez-Gomez v. Ashcroft*, 263 F.3d 442, 444–45 (5th Cir. 2001). Leal has not offered evidence that would compel the conclusion that he will be persecuted in the future. See *Faddoul v. INS*, 37 F.3d 185, 188–89 (5th Cir.

1994). Additionally, internal relocation negates a reasonable fear of future persecution, and Leal has not shown evidence that would compel a finding that he cannot relocate within his country.

See 8 C.F.R. § 208.13(b)(2)(ii); *Lopez-Gomez*, 263 F.3d at 445–46.

Finally, Leal did not present his argument for withholding of removal to the Board of Immigration Appeals, so it is unexhausted, and we lack jurisdiction to consider it. See *Vazquez*, 885 F.3d at 868–69. The petition for review is DENIED in part and DISMISSED in part for want of jurisdiction. 2