

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 18, 2008

Charles R. Fulbruge III
Clerk

No. 07-60789
Summary Calendar

MICHAEL ONGUBO NYAIGOTI

Petitioner

v.

MICHAEL B MUKASEY, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A78 997 406

Before DAVIS, GARZA and PRADO, Circuit Judges.

PER CURIAM:*

Michael Ongubo Nyaigoti, a citizen and native of Kenya, petitions for review of the Board of Immigration Appeals' (BIA's) dismissal of his appeal of the order of the immigration judge (IJ) denying his application for withholding of removal. To obtain withholding of removal, an applicant must show a clear probability of persecution if removed. *Roy v. Ashcroft*, 389 F.3d 132, 138 (5th Cir. 2004).

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Nyaigoti challenges the IJ's adverse credibility determination and the IJ's determination that Nyaigoti failed to show a clear probability of persecution, if he were to return to Kenya, on account of his alleged membership in a political party. Nyaigoti asserts that the inconsistencies in his live testimony and the evidence are not material to his claims. Although Nyaigoti seeks to minimize the importance of the inconsistencies, our review of the record does not compel a determination contrary to that of the IJ. See *Chun v. INS*, 40 F.3d 76, 78 (5th Cir. 1994); see also *Efe*, 293 F.3d at 905. Similarly, Nyaigoti has failed to show that the evidence of past persecution or the probability of future persecution is so compelling as to require a conclusion contrary to that of the IJ. *Chen v. Gonzales*, 470 F.3d 1131, 1134 (5th Cir. 2006); *Roy v. Ashcroft*, 389 F.3d at 138.

The petition for review is DENIED.