

ABEN v. GARLAND [Fifth Circuit Court of Appeals, Case No. 20-60937]
filed on August 20, 2024

Collins Enyong Aben, a native of Cameroon, entered the United States in 2019 without valid entry documents and sought asylum, withholding of removal, and protection under the Convention Against Torture (CAT). He claimed persecution due to his political opinions. Aben was detained and tortured multiple times by the Cameroonian military, which accused him of supporting separatists. Despite his testimony, the Immigration Judge (IJ) denied all his claims, and the Board of Immigration Appeals (BIA) upheld this decision, doubting his credibility and the severity of his persecution.

On appeal to the United States Court of Appeals for the Fifth Circuit, the court reviewed the BIA's decision. The court assumed Aben's testimony was credible, noting the serious nature of his allegations, which included death threats and physical abuse by the Cameroonian military. However, the BIA had dismissed his claims, stating that Aben's experiences did not constitute "extreme persecution" and that his fear of future persecution was not objectively reasonable. The BIA also found that his claims were not politically motivated but were related to his occupation as a nurse.

The Fifth Circuit partially agreed with the BIA's decision, denying Aben's CAT claim but vacating the BIA's opinion on his asylum and withholding of removal claims. The court remanded the case for further proceedings, highlighting that the BIA failed to properly consider the credible death threats and the systematic nature of the persecution Aben faced. The court emphasized that persecution is more than just harassment or intimidation; it involves a sustained, systematic effort to target an individual based on a protected ground.

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Advice to future asylum applicants

Based on the United States Court of Appeals case concerning Collins Enyong Aben versus Merrick Garland, there are several key pieces of advice that future asylum seekers should consider:

- 1. Document Your Experiences Thoroughly:** The court case highlights the importance of providing substantial evidence to support claims of persecution. Future asylum seekers should document their experiences meticulously, including photographs of injuries, medical records, and any other forms of evidence that can substantiate claims of harm or threats. The absence of such documentation can lead to doubts about the credibility and severity of the persecution faced.
- 2. Consistency in Testimony:** It is crucial for asylum seekers to be consistent in their testimonies across all stages of the immigration process. Any discrepancies between initial interviews and later testimonies can harm the credibility of the case. If inconsistencies arise due to stress or trauma, it is important to explain these circumstances clearly during the asylum proceedings.

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