

November 6, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-61067
Summary Calendar

GILBERTO CESAR TZOC-GUTIERREZ;
BLANCA MARICEL ZELAYA-ALVARADO;
LUIS GILBERT TZOC-ZELAYA,

Petitioners,

versus

JOHN ASHCROFT, U.S. Attorney General,

Respondent.

Petition for Review of An Order
of the Board of Immigration Appeals
BIA Nos. A77 799 254
A77 799 255
A77 799 256

Before GARWOOD, EMILIO M. GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:*

Gilberto Cesar Tzoc-Gutierrez (Tzoc), his wife, Blanca Maricel Zelaya-Alvarado, and their son, Luis Gilbert Tzoc-Zelaya, petition for review of an order of the Board of Immigration Appeals (BIA) summarily affirming the immigration judge's (IJ) decision to deny

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

their applications for asylum and withholding of removal. Petitioners contend that the BIA's decision offered no specific reasons for upholding the IJ's decision and, therefore, was insufficient to deny relief and to provide a basis for this court's review. We have previously held that the BIA's summary affirmance procedures do not deprive the court of a basis for judicial review and do not violate due process. *Soadjede v. Ashcroft*, 324 F.3d 830, 832-33 (5th Cir. 2003). Therefore, the petitioner's argument is foreclosed.

Petitioners also contend that any mixed motivation to harm Tzoc should have been construed in their favor and that the IJ erred in concluding that Tzoc could have relocated within Guatemala. These issues lack merit and in any event were not raised before the BIA and hence have not been administratively exhausted. *See Wang v. Ashcroft*, 260 F.3d 448, 452-53 (5th Cir. 2001).

Finally, petitioners assert that the BIA's decision was not supported by substantial evidence. After reviewing the record and the briefs, we conclude that the decision is supported by substantial evidence and that the evidence in the record does not compel a contrary conclusion. *See Mikhael v. INS*, 115 F.3d 299, 302-04 (5th Cir. 1997); *Chun v. INS*, 40 F.3d 76, 79 (5th Cir. 1994); *Faddoul v. INS*, 37 F.3d 185, 188 (5th Cir. 1994). Accordingly, the petition for review is

DENIED.