

November 15, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-60960
Summary Calendar

KUMAR LAKHWINDER,

Petitioner,

v.

ALBERTO R. GONZALES, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A97 541 696

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:*

Kumar Lakhwinder, a native and citizen of India, petitions for review of the final order of the Board of Immigration Appeals' decision (BIA) affirming the Immigration Judge's (IJ) denial of his applications for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). In rejecting Lakhwinder's applications, the BIA found that Lakhwinder lacked credibility.

This court generally reviews only the BIA's decision, not that of the IJ, except to the extent that the IJ's decision influences the BIA. Mikhael v. I.N.S., 115 F.3d 299, 302 (5th Cir. 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Because the BIA summarily affirmed, without opinion, the IJ's decision, the IJ's decision is the final agency determination for judicial review. See 8 C.F.R. § 1003.1(e)(4)(ii).

The BIA articulated cogent reasons, supported by substantial evidence in the record, for rejecting Lakhwinder's testimony as incredible. See Chun v. I.N.S., 40 F.3d 76, 79 (5th Cir. 1994). Absent credible testimony by Lakhwinder, substantial evidence supports the BIA's determination that Lakhwinder failed to establish that he was eligible for asylum and withholding of removal. See id. Because Lakhwinder failed to challenge the IJ's denial of relief under the CAT in his appeal to the BIA, he has not exhausted this issue. This court thus lacks jurisdiction to review it. See Wang v. Ashcroft, 260 F.3d 448, 452-53 (5th Cir. 2001). Accordingly, Lakhwinder's petition for review is DENIED.