United States Court of Appeals
Fifth Circuit

F I L E D

August 12, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-61073
Summary Calendar

OLGUINE BERTINEAU; MARIE MICHELLE BERTINEAU,

Petitioners,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A79 497 180

Before BENAVIDES DENNIS and OWEN, Circuit Judges

PER CURIAM:[*]

   Olguine Bertineau ("Bertineau") and her daughter, Marie
Michelle Bertineau,[**] both natives and citizens of Haiti, petition
this court to review the decision of the Board of Immigration
Appeals (BIA) denying Bertineau's application for asylum,
withholding of removal, and relief under the Convention Against
Torture. Bertineau challenges the BIA's determination that her
application for asylum was untimely under 8 U.S.C.

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   [*] 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this opinion should not be published and is not precedent except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.

   [**] Marie Michelle Bertineau's claim for immigration relief
is derivative of her mother's eligibility for relief

§ 1158(a)(2). We lack jurisdiction to review the BIA's determination that Bertineau's asylum application was not timely. 8 U.S.C. § 1158(a)(3).

With regard to Bertineau's argument that the BIA erred in denying her application for withholding of removal, we conclude that substantial evidence supports the BIA's determination that Bertineau did not meet her burden of establishing either past persecution or a likelihood of future persecution. See Efe v. Ashcroft, 293 F.3d 899, 906 (5th Cir. 2002); 8 C.F.R. § 208.16(b).

Bertineau's appellate brief does not address the BIA's denial of relief under the Convention Against Torture. Accordingly, she has waived the issue. See Rodriquez v. INS, 9 F.3d 408, 414 n.15 (5th Cir. 1993).

The petition for review is DENIED.