

December 2, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60151
Summary Calendar

ELHAM HOUSHMANDI,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A77 904 377

Before GARZA, DEMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Elham Houshmandi petitions this court for review of the Board of Immigration Appeals's (BIA's) decision denying asylum, withholding of removal, and protection under the Convention Against Torture. Houshmandi contends that her asylum application was timely filed because she had one year from the date on which she converted to Christianity to file the application. We do not, however, have jurisdiction to review the immigration judge's discretionary determination that Houshmandi's asylum application

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

was untimely. See 8 U.S.C. § 1158(a)(3). The petition for review is thus DISMISSED as to the claims concerning asylum.

We hold that substantial evidence supports the BIA's determination that Houshmandi is ineligible for withholding of removal and for protection under the Convention Against Torture; the record is ambiguous regarding whether her 1994 arrest and detention were on account of a protected ground, and evidence that Houshmandi "could" be persecuted because of her religious conversion or tortured if removed to Iran does not rise to the level of the "more likely than not" standard necessary to obtain the requested relief. See 8 C.F.R. §§ 208.16(b)(1)(iii) (2004), 208.16(c)(2) (2004); Efe v. Ashcroft, 293 F.3d 899, 906 (5th Cir. 2002).

PETITION DISMISSED IN PART AND DENIED IN PART.