

November 1, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-61060  
Summary Calendar

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JASBIR SINGH MALHOTRA,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A73 226 340  
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Before DAVIS, SMITH and DENNIS, Circuit Judges.

PER CURIAM:\*

Jasbir Singh Malhotra, a native and citizen of India, has filed a petition for review of the decision of the Board of Immigration Appeals (BIA) denying his application for withholding of removal under the Immigration and Nationality Act and relief under the Convention Against Torture. Malhotra argues that the Immigration Judge (IJ) and the BIA erred in determining that there were discrepancies in the record and erred in denying his application due to a lack of corroborative evidence. Malhotra argues that he has established a clear probability of persecution

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

or torture upon his return to India based on his political activities of writing newspaper articles critical of the Indian government. The IJ found that Malhotra was not a credible witness based on inconsistencies between his written statement, his testimony, and his brother's testimony. The IJ found that due to the inconsistencies, corroborative evidence was necessary and that Malhotra had failed to provide any corroborative evidence to support his claims. The IJ denied his request for withholding of removal and relief under the Convention Against Torture. The BIA affirmed the IJ's decision. We will not substitute our judgment of Malhotra's credibility for that of the IJ and BIA. See Efe v. Ashcroft, 293 F.3d 899, 905 (5th Cir. 2002). Malhotra has not shown that the evidence in the record compels a conclusion contrary to the decision of the IJ and BIA that Malhotra's testimony was not credible particularly in light of his failure to present readily available corroborative evidence to establish his eligibility for withholding of removal or relief under the Convention Against Torture. See Lopez De Jesus v. INS, 312 F.3d 155, 161 (5th Cir. 2002).

PETITION DENIED.