

April 8, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-60501  
Summary Calendar

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SANTOS JOSE GUTIERREZ,

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. A76-898-371  
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Before JOLLY, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

Santos Jose Gutierrez has filed a petition for review of the Board of Immigration Appeals' ("BIA") order, denying him asylum and withholding of deportation but granting him voluntary departure. Gutierrez argues that he was eligible for withholding of deportation because he demonstrated that was persecuted and fears persecution by guerillas in Guatemala because he was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

formerly a member of the Guatemalan military and perceived as anti-guerilla.

The evidence does not compel a finding that Gutierrez will face persecution if he returns to Guatemala, and the BIA's decision is supported by substantial evidence. See Girma v. INS, 283 F.3d 664, 666 (5th Cir. 2002); Carbajal-Gonzalez v. INS, 78 F.3d 194, 197 (5th Cir. 1996).

Although he iterates legal boilerplate regarding asylum, Gutierrez has failed to brief, and has thus waived, any challenge to the denial of asylum. See Strong v. BellSouth Telecomms. Inc., 137 F.3d 844, 853 (5th Cir. 1998).

The petition for review is DENIED.