

October 15, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-60045  
Summary Calendar

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BITEWEDED BERHANE,

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. A77 871 723  
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Before HIGGINBOTHAM, DAVIS and PRADO, Circuit Judges.

PER CURIAM:\*

Biteweded Berhane, a native of Ethiopia, petitions this court for review of the affirmance by the Board of Immigration Appeals (BIA) of the Immigration Judge's (IJ) decision denying Berhane's application for asylum, withholding of removal, and relief under the United Nations Convention Against Torture. Berhane's claim for asylum centered on the border conflict between Ethiopia and Eritrea that arose in 1998 and Ethiopia's deportation of Ethiopians of Eritrean origin, such as Berhane, to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Eritrea and Eritrea's persecution of Jehovah's Witnesses who refused to fight. Berhane acknowledges that the countries have entered into a cease-fire agreement but contends that their past persecution of Ethiopians of Eritrean origin and Jehovah's Witnesses warranted a finding that he had a well-founded fear of persecution if returned to Ethiopia. Berhane also seeks review of the dismissal of his asylum application as frivolous 8 U.S.C. § 1158(d)(6), and he argues that he did not know that the letter allegedly from Ethiopia submitted with his application had been fabricated.

The IJ's determination that Berhane did not establish past persecution or a well-founded fear of persecution if returned to Ethiopia is supported by substantial evidence, and Berhane has not shown that the evidence presented was so compelling to require a finding of the requisite fear of persecution. See Ontunez-Tursios v. Ashcroft, 303 F.3d 341, 350-51 (5th Cir. 2002); see also Rojas v. INS, 937 F.2d 186, 190 n.1 (5th Cir. 1991). Nor has he made such a showing with respect to the denial of his request for withholding of removal or for relief under the Convention Against Torture. See Faddoul v. INS, 37 F.3d 185, 188 (5th Cir. 1994); 8 C.F.R. § 208.16(c)(2). The IJ's determination that Berhane knowingly submitted a fabricated document with his application and the dismissal of the application as frivolous are supported by the record. See Efe v. Ashcroft, 293 F.3d 899, 908 (5th Cir. 2002).

PETITION DENIED.