

FILED

April 19, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60387
Summary Calendar

REINA ISABEL FLORES-VIATORO,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order from the
Board of Immigration Appeals
BIA No. A28 719 066

Before JONES, BENAVIDES and CLEMENT, Circuit Judges.

PER CURIAM:*

Reina Isabel Flores-Viatoro (Flores) has filed a petition for review of the Board of Immigration Appeals affirmance of the denial by the Immigration Judge (IJ) of Flores's application for asylum and for withholding of deportation. Flores argues that the IJ failed to view Flores's rape in El Salvador as an act of persecution. She also argues that her attorney did not receive a copy of the motion to reinstate the deportation proceedings, which

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

had been administratively closed, and that the failure to mail her attorney a copy of the motion constituted a due process violation. We construe the respondent's motion for summary affirmance as its brief.

The IJ's denial of Flores's application for asylum and for withholding of deportation was based upon a determination that Flores was not a credible witness. We will not disturb the IJ's credibility determinations. Efe v. Ashcroft, 293 F.3d 899, 905 (5th Cir. 2002); Chun v. INS, 40 F.3d 76, 78 (5th Cir. 1994). Flores did not raise in the proceedings before the BIA the issue of failure to be forwarded a copy of the motion to reinstate. See 8 C.F.R. § 1003.2(a). We will not address this issue, which Flores raises for the first time in her petition for review. Goonsuwan v. Ashcroft, 252 F.3d 383, 389-91 (5th Cir. 2001).

The respondent's motion for summary affirmance and other motions are **DENIED**. Flores's motion to vacate the BIA decision and remand the case for additional proceedings is **DENIED**.

PETITION FOR REVIEW DENIED. MOTIONS DENIED.