

May 5, 2005

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 04-60522  
Summary Calendar

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RIAZ NAZARALI MOMIN,

Petitioner,

versus

ALBERTO R. GONZALES, U.S. ATTORNEY GENERAL,

Respondent.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
A78 567 259

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Before JONES, BARKSDALE, and PRADO, Circuit Judges.

PER CURIAM:\*

Riaz Nazarali Momin, a citizen of India, petitions for review of an order of the Board of Immigration Appeals affirming the immigration judge's denial of Momin's applications for withholding of removal under the Immigration and Nationality Act (INA) and the Convention Against Torture (CAT).

To obtain withholding of removal under the INA, an applicant "must show that it is more likely than not that his life or freedom would be threatened by persecution" based on his political opinion, race, religion, nationality, or membership in a particular social

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

group; under the CAT, that he is likely to be tortured. **Efe v. Ashcroft**, 293 F.3d 899, 906-07 (5th Cir. 2002) (quotation omitted). We review for substantial evidence the determination that an alien is not entitled to withholding of removal and do not substitute our judgment of the witness' credibility for that of the BIA or IJ. See **id.** at 905-06; **Chun v. INS**, 40 F.3d 76, 78 (5th Cir. 1994).

Momin contends the BIA erred by affirming the IJ's determinations that he had not shown it was more likely than not he would be subjected to persecution or targeted for torture because of his religion (Muslim) if he returned to India. The record does not compel a finding that Momin met his burden to show he was entitled to withholding of removal under either the INA or the CAT. See **Roy v. Ashcroft**, 389 F.3d 132, 139-40 (5th Cir. 2004). Momin has failed to show the BIA's decision was not supported by substantial evidence. See **Mikhael v. INS**, 115 F.3d 299, 302 (5th Cir. 1997).

**DENIED**