

January 16, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-60167
Summary Calendar

LIVIU RIF,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A95 608 473

Before REAVLEY, WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

Liviu Rif, a native and citizen of Romania, petitions this court to review the decision of the Board of Immigration Appeals (BIA) denying his application for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). Rif argues that he demonstrated exceptional circumstances for his failure to timely file his application for asylum. He maintains that he demonstrated past persecution because of his political opinion and that he would likely be persecuted on that basis in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Romania in the future. He also argues that he is entitled to relief under the CAT.

We have no jurisdiction to review the BIA's determination on the timeliness of Rif's asylum application. See 8 U.S.C. § 1158(a)(3). That portion of Rif's petition for review challenging the denial of asylum is dismissed.

After reviewing the record, we conclude that substantial evidence supports the finding that Rif did not show that he was persecuted because of his political opinion or that he is likely to be persecuted because of his political opinion upon his removal to Romania. Rif thus has not shown that the BIA erred in denying his application for withholding of removal. Mikhael v. INS, 115 F.3d 299, 302 (5th Cir. 1997); Chun v. INS, 40 F.3d 76, 78 (5th Cir. 1994).

We also find that substantial evidence supports the determination that Rif was not entitled to relief under the CAT because he did not establish that he would be tortured upon his return to Romania. See 8 C.F.R. § 208.18(a)(1), (a)(2); Bah v. Ashcroft, 341 F.3d 348, 351-52 (5th Cir. 2003); Efe v. Ashcroft, 293 F.3d 899, 907 (5th Cir. 2002). Accordingly, Rif's petition for review of the BIA's denial of his application for withholding of removal and relief under the CAT is denied.

PETITION FOR REVIEW DISMISSED IN PART, DENIED IN PART.