

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-5173
Summary Calendar

ROBERT MICHAEL PERERA,

Petitioner,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

PETITION FOR REVIEW OF AN ORDER
OF THE IMMIGRATION AND NATURALIZATION SERVICE
(A28 65132)

(February 21, 1994)

Before DAVIS, JONES and DUHÉ, Circuit Judges.

PER CURIAM:¹

Petitioner, Robert Michael Perera, seeks review of a final order of the Board of Immigration Appeals (BIA). The BIA affirmed the immigration judge's denial of Perera's request for asylum and withholding of deportation under sections 208(a) and 243(h) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158(a), 1253(h). The BIA affirmed Perera's application for voluntary departure under § 244(e) of the Act, 8 U.S.C. § 1254(e). We affirm.

BACKGROUND

¹ Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Perera, a native and citizen of Sri Lanka, entered the United States on September 17, 1988 as a non-immigrant visitor authorized to remain in the country for twenty-nine days. When Perera failed to timely depart the country as authorized, the INS issued an order to show cause on March 13, 1989, charging Perera with deportability as an overstay pursuant to § 241(a)(2) of the Act, 8 U.S.C. § 1251(a)(2) (1988).²

At his hearing, Perera admitted the allegations in the order to show cause, conceded deportability and indicated his desire to apply for asylum. The immigration judge continued the hearing to allow Perera time to file the asylum application.

At the hearing on the merits, Perera testified that he had joined the United National Party, the official party in Sri Lanka, but was being harassed to join a revolutionary party known as the JVP. Perera testified that he had been forced to pay the JVP money to guarantee his own safety. Perera also testified that his neighbors had received letters from JVP threatening their lives. Perera stated that his neighbor had told him he would be the next one to receive such a letter from JVP, but Perera admitted that his neighbor had no actual knowledge regarding whether he was about to receive a letter. Perera also admitted that the JVP generally engages in the forcible recruitment of young males, regardless of

² Section 241 of the Immigration and Nationality Act, 8 U.S.C. § 1251, was amended by the Immigration Act of 1990, and the grounds for deportation were reorganized. Pub. L. No. 101-649, 104 Stat. 5006, 5077-81 (1990). The reorganized § 241 is inapplicable to aliens who received notice of their proceedings before March 1, 1990. 104 Stat. at 5082.

their political affiliations. The immigration judge denied Perera's request for asylum and withholding of deportation, but granted him permission to voluntarily depart the country on or before January 30, 1990. The BIA upheld that decision. Perera appeals.

DISCUSSION

This Court is authorized to review only the BIA's decision. Adebisi v. INS, 952 F.2d 910, 912 (5th Cir. 1992). On appeal, Perera has failed to challenge two dispositive findings of the BIA. First, the BIA found that Perera had not shown that his alleged fear of persecution existed country wide. The BIA explained that Perera had failed to show why he could not have relocated to a region in Sri Lanka where either the JVP did not effectively operate or where he was unknown to local cadres of the JVP. Second, the BIA found that Perera had not shown that the JVP was a group that the Sri Lankan government was unwilling or unable to control. The BIA found that Perera had not approached the authorities for help after his encounter with the JVP. Further, relying on its recent precedent in Matter of T-, Interim Decision, 3187, at 8 (BIA 1992), the BIA noted that the Sri Lankan government has suppressed the JVP elements in the country. Because Perera has failed to properly challenge these findings on appeal, he has waived them. In re Tex. Mortgage Servs. Corp., 761 F.2d 1068, 1073 (5th Cir. 1985). These two findings by the BIA are necessary to establish eligibility for asylum. See Adebisi, 952 F.2d at 914; Quintanilla- Ticas v. INS, 783 F.2d 955, 957 (9th Cir. 1986).

Thus, we are precluded from reviewing Perera's arguments on appeal.

CONCLUSION

For the foregoing reason, the order of the Board of Immigration Appeals is AFFIRMED.