

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-40280
Summary Calendar

ASM SHAMIM,

Petitioner,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order
of the Board of Immigration Appeals
(A71 032 402)

(September 30, 1994)

Before KING, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:¹

Asm Shamim petitions for review of the Board of Immigration Appeals order denying his applications for asylum and withholding of deportation. Finding that the decision was within the BIA's discretion, we deny the petition for review.

I.

¹Local 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Petitioner, a 32-year-old, unmarried man, and a native and citizen of Bangladesh, entered the United States on a visitor's visa in April 1991. Shamim overstayed his visitor's visa and was declared deportable under 8 U.S.C. § 1251(a)(1)(B). He then sought relief from deportation and filed an application for political asylum on grounds that he will be persecuted in Bangladesh because he was a supporter of the opposition Jatiya party. Shamim also claimed that he will be persecuted under the Islamic law of Bangladesh because he has converted to Christianity.

Following a hearing the immigration judge, in a thorough opinion, denied petitioner's applications for political asylum and holding. The BIA, agreeing with the finding of the immigration judge, dismissed the appeal.

II.

Our review of a BIA's order denying asylum and withholding of deportation is extremely deferential. We must deny the petition for review unless petitioner presents evidence of persecution "so compelling that no reasonable factfinder could fail to arrive at his conclusion." **Silwany-Rodriguez v. INS**, 975 F.2d 1157, 1160 (5th Cir. 1993) (citing **INS v. Elias-Zacarias**, 112 S.Ct. 812, 815-17 (1992)).

Our review of the record persuades us that the immigration judge and the BIA were entitled to conclude that Shamim has no well-founded fear of persecution based upon either his political beliefs or upon his religious beliefs.

First, the immigration judge determined that Shamim was not a credible witness. Shamim attacks that conclusion on appeal; however, credibility calls are particularly within the providence of the judicial officer who hears the testimony and observes the witnesses. The record in this case gives us no reason to depart from this well-established principle. **See United States v. Oregon State Medical Society**, 343 U.S. 326, 339 (1952); **Estrada v. INS**, 775 F.2d 1018 (9th Cir. 1985).

Our deference to the immigration judge's credibility determination is buttressed by the fact that Shamim's corroborating evidence was not substantial. It consisted of what appears to be an arrest warrant; two letters from fellow Jatiya party members, an Amnesty International report and his written personal statement.

The arrest warrant appears to direct his appearance in court (although a time is not specified) on a "Arms Act" violation. As the BIA observed, the Amnesty International Report on Bangladesh describes large numbers of people being arrested by the government under the Special Powers Act (SPA). The BIA discounted the arrest warrant by noting that if the government needed a pretext to arrest the respondent because of his political opposition, it could have easily done so under the SPA.

The two letters from fellow Jatiya party members confirmed Shamim's membership in the Jatiya party and his role as election coordinator for his district. Beyond that, however, the letters show little more than that the ruling party harassed members of the Jatiya party in 1991 before Shamim departed the country and

continue to do so. These letters, however, do not demonstrate specific facts showing actual persecution, nor do they detail other good reasons for Shamim to fear persecution.

Shamim's written personal statement contains primarily generalities of the same nature. He states that armed terrorists came to his home to look for him and tortured his family members. But this statement is belied by Shamim's testimony that his parents own a candy factory which they continue to run, along with other businesses. Moreover, according to the state department's report, the recent parliamentary election, whereby the BNP won a plurality, was "perhaps the most honest election in Bangladesh's history." The report further recounts that all of the nation's political parties were able to campaign quite freely, including the Jatiya party and other major opponents of the winning Bangladesh Nationalist Party. Most, including the Jatiya party, won seats in parliament.

In summary, where the immigration judge and the Board found that Shamim lacked credibility; where his family remains in Bangladesh and operates a business partially owned by Shamim; where his political harassment is similar in nature and kind to the harassment that often occurs among factions in Bangladesh; where his own party has thirty-five parliamentary seats; and where elections are generally free and fair, the board's conclusion that Shamim had no well-founded fear of persecution because of his Jatiya party activities, is supported by substantial evidence.

Nor do we find persuasive Shamim's argument that the Board's decision denying relief on grounds of expected religious persecution lacks substantial evidence. Shamim produced no evidence to corroborate his assertions that he converted to Christianity. Furthermore, no evidence other than Shamim's testimony was produced supporting his view that persons in Bangladesh have been punished or harmed for having changed their religion. The State Department's summary supports this conclusion.

PETITION FOR REVIEW DENIED.