

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 15, 2022

Lyle W. Cayce
Clerk

No. 21-60440
Summary Calendar

NANCY DEL CARMEN MENJIVAR ALVARADO,

Petitioner,

versus

MERRICK GARLAND, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A206 478 472

Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

Nancy Del Carmen Menjivar Alvarado, a native and citizen of El Salvador, petitions for review of a decision of the Board of Immigration Appeals (BIA) dismissing her appeal from a decision of the immigration judge (IJ) concluding that she was ineligible for asylum, withholding of

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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removal, and relief under the Convention Against Torture (CAT). The BIA affirmed the IJ's adverse credibility determination; on that basis, it concluded that Menjivar Alvarado had failed to establish an eligibility for relief.

As she did in her appeal to the BIA, Menjivar Alvarado challenges the IJ's credibility determination, raising fact-intensive arguments that attempt to explain away the several inconsistencies identified by the IJ. However, the IJ and the BIA cited "specific and cogent reasons derived from the record" to support the adverse credibility determination. *Singh v. Sessions*, 880 F.3d 220, 225 (5th Cir. 2018) (internal quotation marks and citation omitted). Menjivar Alvarado has failed to demonstrate that it is clear from the totality of the circumstances that no reasonable factfinder could make an adverse credibility ruling in her case. *See Wang v. Holder*, 569 F.3d 531, 538-40 (5th Cir. 2009). Thus, the adverse credibility determination is supported by substantial evidence. *See id.*

Without credible evidence, there was no basis for the BIA to grant asylum or withholding of removal. *See Chun v. INS*, 40 F.3d 76, 79 (5th Cir. 1994). Although Menjivar Alvarado raises other issues regarding the denial of her asylum and withholding of removal claims, given the dispositive adverse credibility determination, we need not address those issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976). Further, although an adverse credibility determination is not necessarily dispositive of a CAT claim, Menjivar Alvarado has pointed to "no independent, non-testimonial evidence going to the likelihood of torture," and therefore the adverse credibility finding is also dispositive of her CAT claim. *Arulnanthy v. Garland*, 17 F.4th 586, 597-98 (5th Cir. 2021).

Accordingly, the petition for review is DENIED.