

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-2122

TESFAYE AMARE,

Petitioner,

versus

JOHN ASHCROFT, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A78-616-184)

Submitted: February 4, 2004

Decided: April 13, 2004

Before WILKINSON, NIEMEYER, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Alexander H. Lubarsky, COMMUNITY LEGAL CENTERS, San Mateo, California, for Petitioner. Peter D. Keisler, Assistant Attorney General, Michael S. Raab, Teal Luthy Miller, Civil Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Tesfaye Amare, a native and citizen of Ethiopia, petitions for review of an order of the Board of Immigration Appeals ("Board") affirming the immigration judge's decision denying Amare's applications for asylum, withholding from removal and withholding under the Convention Against Torture. Amare claims he was denied due process and substantial evidence supports his claim for asylum. We deny the petition for review.

Amare claims his right to due process was violated when the immigration judge "took over" the direct examination. We note that Amare failed to raise this claim to the Board. Accordingly, we will not review the claim. See 8 U.S.C. § 1252(d)(1); Lonyem v. United States Att. General, 352 F.3d 1338, 1339 n.5 (11th Cir. 2003); Abdulrahman v. Ashcroft, 330 F.3d 587, 594-95 (3d Cir. 2003).

A determination of eligibility for asylum or withholding is conclusive if supported by substantial evidence on the record considered as a whole. INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992). Administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. 8 U.S.C. § 1252(b)(4)(B) (2000). We will reverse the Board "only if 'the evidence presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution.'" Rusu v. INS, 296 F.3d 316, 325 n.14 (4th Cir. 2002)

(quoting Huaman-Cornelio v. Board of Immigration Appeals, 979 F.2d 995, 999 (4th Cir. 1992) (internal quotation marks omitted)).

We find the evidence does not compel relief for Amare. Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED