

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1902

SVIATLANA DAVYDZENKA,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals

Submitted: June 20, 2011

Decided: July 18, 2011

Before KING, DAVIS, and DIAZ, Circuit Judges.

Petition dismissed in part, and denied in part by unpublished per curiam opinion.

Joshua Bardavid, New York, New York, for Petitioner. Tony West, Assistant Attorney General, Luis E. Perez, Senior Litigation Counsel, Briena L. Strippoli, OFFICE OF IMMIGRATION LITIGATION, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sviatlana Davydzhenka, a native and citizen of Belarus, petitions for review of an order of the Board of Immigration Appeals (Board) dismissing her appeal from the Immigration Judge's denial of her applications for relief from removal.

Davydzhenka first disputes the Board's finding that her asylum application was not timely filed and that no exceptions applied to excuse the untimeliness. We have reviewed Davydzhenka's claims in this regard and find that we do not have jurisdiction to review this determination. See 8 U.S.C. § 1158(a)(3) (2006); Lizama v. Holder, 629 F.3d 440, 444-46 (4th Cir. 2011); Gomis v. Holder, 571 F.3d 353, 358-59 (4th Cir. 2009), cert. denied, 130 S. Ct. 1048 (2010).

Next, Davydzhenka challenges the Board's finding that she failed to qualify for withholding of removal. "To qualify for withholding of removal, a petitioner must show that he faces a clear probability of persecution because of his race, religion, nationality, membership in a particular social group, or political opinion." Rusu v. INS, 296 F.3d 316, 324 n.13 (4th Cir. 2002) (citing INS v. Stevic, 467 U.S. 407, 430 (1984)). We have reviewed the record and Davydzhenka's contentions and conclude that substantial evidence supports the finding below that Davydzhenka did not meet her burden to qualify for this relief. Finally, we uphold the agency determination that

Davydzenka failed to qualify for protection under the Convention Against Torture. See 8 C.F.R. § 1208.16(c)(2) (2011).

Accordingly, we dismiss in part and deny in part 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.

DISMISSED IN PART;
AND DENIED IN PART