

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-2427

ASHVINKUMAR RASIKLAL PATEL,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A72-165-832)

Submitted: May 11, 2005

Decided: May 23, 2005

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Robert Frank, Newark, New Jersey, for Petitioner. Marsha B. Liss, 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Unpublished opinions are not binding precedent in this circuit.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:

Ashvinkumar Rasiklal Patel petitions for review of an order of the Board of Immigration Appeals ("Board") affirming and adopting the immigration judge's decision denying his applications for asylum, withholding of removal and withholding under the Convention Against Torture ("CAT").*

A determination of noneligibility for withholding must be upheld if supported by substantial evidence on the record considered as a whole. INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992). We will reverse only "if 'the evidence presented by the petitioner was so compelling that no reasonable fact finder 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)). To qualify for withholding of removal, Patel must show a clear probability of persecution because of his race, religion, nationality, membership in a particular social group, or political opinion. Rusu, 296 F.3d at 324 n.13 (citing INS v. Stevic, 467 U.S. 407, 430 (1984)). We find substantial evidence supports the Board's decision.

Protection under the CAT is generally granted in the form of withholding of removal. See 8 C.F.R. § 1208.16(c) (2004). An

*Patel does not challenge the specific finding he was not eligible for asylum.

applicant must establish that it is more likely than not that he would be tortured if removed to the proposed country of removal. 8 C.F.R. § 1208.16(c)(2). Again, we find the Board's finding is supported by substantial evidence.

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