

December 20, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60124
Summary Calendar

GURVINDER KAUR GILL; JASMIN GILL,

Petitioners,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A78 567 224
BIA No. A78 567 225

Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Gurvinder Kaur Gill ("Gill"), a citizen of India, and Jasmin Gill ("Jasmin"), Gill's minor daughter, petition for review of an order from the Board of Immigration Appeals ("BIA") dismissing their appeal of the immigration judge's ("IJ") decision to deny their applications for asylum, withholding of removal under the Immigration and Nationality Act ("INA"), and withholding of removal under the Convention Against Torture ("CAT"). Because

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Jasmin's claims are dependent upon Gill's claims, only Gill's claims require consideration.

Gill contends that the BIA erred by finding that she did not establish her eligibility for asylum and withholding of removal under the INA and CAT. Gill's application for asylum was denied as untimely. Because Gill has failed to address the timeliness of her asylum application in her instant petition, that issue is waived. See Rodriguez v. INS, 9 F.3d 408, 414 n.15 (5th Cir. 1993). The BIA affirmed the IJ's determination that Gill's testimony alleging past persecution and fear of future persecution was not credible. As Gill has failed to show anything in the record compelling this court to overturn the BIA's credibility determination, that credibility determination cannot be overturned. See Lopez De Jesus v. INS, 312 F.3d 155, 161 (5th Cir. 2002). Gill has therefore failed to show that the BIA's decision was not supported by substantial evidence. See Mikhael v. INS, 115 F.3d 299, 302 (5th Cir. 1997). Moreover, even if Gill's testimony was deemed to be credible, the record does not compel a finding that she met her burden to warrant withholding of removal under the INA or the CAT. See Bah v. Ashcroft, 341 F.3d 348, 352 (5th Cir. 2003); Mikhael, 115 F.3d at 302.

Accordingly, the petition for review is DENIED.