

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-12835
Non-Argument Calendar

Agency No. A209-153-272

SANDEEP KUMAR,

Petitioner,

versus

U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals

(January 16, 2018)

Before WILSON, JULIE CARNES, and HULL, Circuit Judges.

PER CURIAM:

Sandeep Kumar, a native and citizen of India, petitions us for review of an order from the Board of Immigration Appeals (BIA) affirming an immigration judge's (IJ) denial of his application for asylum, withholding of removal, and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Kumar argues that the BIA erred in affirming the IJ's findings that he was not credible and that he failed to provide reasonably available corroborating evidence.

We review the BIA's decision as the final judgment. *Carrizo v. U.S. Att'y Gen.*, 652 F.3d 1326, 1330 (11th Cir. 2011) (per curiam). However, we also review the IJ's decision to the extent that the BIA adopted the IJ's findings or expressly agreed with the IJ's reasoning. *Id.* Findings of the IJ that are not reached by the BIA are not properly before us. *Gonzalez v. U.S. Att'y Gen.*, 820 F.3d 399, 403 (11th Cir. 2016) (per curiam).

We review factual findings, including credibility determinations, under the substantial-evidence test. *Forgue v. U.S. Att'y Gen.*, 401 F.3d 1282, 1286 (11th Cir. 2005). Under this test, we will affirm findings if they are "supported by reasonable, substantial, and probative evidence on the record considered as a whole." *Id.* We view the "evidence in the light most favorable to the agency's decision and draw all reasonable inferences in favor of that decision." *Id.* A

factual finding will not be overturned unless the record compels reversal. *Id.* at 1287.

The Attorney General has the authority to grant asylum to an applicant who meets the INA's definition of "refugee." 8 U.S.C. § 1158(b)(1)(A). Under the INA, a refugee is

any person who is outside any country of such person's nationality . . . and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Id. § 1101(a)(42)(A). The applicant bears the burden of proving that he is a refugee. *Id.* § 1158(b)(1)(B)(i). The applicant must present specific and credible evidence demonstrating that he (1) was persecuted in the past based on one of the protected grounds or (2) has a well-founded fear that he will be persecuted in the future based on one of the protected grounds. *Ruiz v. U.S. Att'y Gen.*, 440 F.3d 1247, 1257 (11th Cir. 2006) (per curiam).

To establish eligibility for withholding of removal under the INA, the applicant must demonstrate that, if he were removed, his life or freedom would be threatened because of his race, religion, nationality, membership in a particular social group, or political opinion. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1232 (11th Cir. 2005) (per curiam). The standard for withholding of removal is "more stringent" than the standard for asylum. *Id.* The applicant must show that it

is more likely than not that he will be persecuted or tortured on account of a protected ground upon returning to his country. *Id.* Similarly, under the CAT, the applicant bears the burden of proving that it is “more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 208.16(c)(2).

An adverse credibility finding “alone may be sufficient to support the denial of an asylum application,” especially when an applicant “produces no evidence other than his testimony.” *Forgue*, 401 F.3d at 1287. The IJ considers the totality of the circumstances, and all relevant factors, in making a credibility determination, 8 U.S.C. § 1158(b)(1)(B)(iii),¹ and must “offer specific, cogent reasons for an adverse credibility finding.” *Forgue*, 401 F.3d at 1287. Once the IJ makes an adverse credibility finding, “the burden is on the applicant . . . to show that the IJ’s credibility decision was not supported by ‘specific, cogent reasons’ or was not based on substantial evidence.” *Id.*

¹ The statute further provides that an IJ may base a credibility determination on: the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant’s or witness’s account, the consistency between the applicant’s or witness’s written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant’s claim, or any other relevant factor.
8 U.S.C. § 1158(b)(1)(B)(iii).

Here, the BIA provided specific reasons for affirming the IJ's adverse credibility finding, namely that Kumar "was clearly unaware of the politics regarding his claim, although his claim was based on persecution on account of his political opinion." The BIA further noted that this "inability to remember" the name of his own party's candidate "in a fairly recent election on which he allegedly worked" was "a very central detail of his claim . . . to have been a dedicated political activist." These reasons support an adverse credibility finding, and the record does not compel a contrary finding. This is especially so because Kumar provided no corroborating evidence.² Thus, substantial evidence supports the BIA's adverse credibility finding. Accordingly, we agree with the BIA that Kumar did not meet his burden on his asylum, withholding of removal, or CAT claims.

PETITION DENIED.

² For the purposes of this appeal, we do not consider the documents that Kumar attached to his Motion to Reopen/Reconsider before the BIA. The case at bar concerns the BIA's original order dismissing the appeal. See *De Sandoval v. U.S. Att'y Gen.*, 440 F.3d 1276, 1278 n.1 (11th Cir. 2006); *Ruiz*, 440 F.3d at 1256 n.7; *Najjar v. Ashcroft*, 257 F.3d 1262, 1303 (11th Cir. 2001).