

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-2183

GILBERT EMAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney General of the United States,

Respondent.

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

Submitted: July 22, 2008

Decided: August 12, 2008

Before NIEMEYER, MOTZ, and TRAXLER, Circuit Judges.

Petition dismissed in part and denied in part by unpublished per curiam opinion.

Arnedo S. Valera, LAW OFFICES OF VALERA & ASSOCIATES, Fairfax, Virginia, for Petitioner. Gregory G. Katsas, Acting Assistant Attorney General, James A. Hunolt, Senior Litigation Counsel, Molly L. DeBusschere, OFFICE OF IMMIGRATION LITIGATION, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gilbert Eman, a native and citizen of Indonesia, seeks review of an order of the Board of Immigration Appeals (Board) affirming the decision of the Immigration Judge denying relief from removal. In his petition for review, Eman first argues that the Board erred in finding that his asylum application was not timely filed and that no exceptions applied to excuse the untimeliness. We lack jurisdiction to review this determination pursuant to 8 U.S.C. § 1158(a)(3) (2006), even in light of the passage of the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231. See Almuhtaseb v. Gonzales, 453 F.3d 743, 747-48 (6th Cir. 2006) (collecting cases).

Eman next challenges the Board's alternative finding that he failed to establish eligibility for asylum. To obtain reversal of a determination denying eligibility for relief, an alien "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." INS v. Elias-Zacarias, 502 U.S. 478, 483-84 (1992). We have reviewed the record and conclude that Eman fails to show that the evidence compels a contrary result. Because Eman has not established eligibility for asylum, he cannot meet the more demanding standard for the relief of withholding of removal. See Chen v. INS, 195 F.3d 198, 205 (4th Cir. 1999).

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.

PETITION DISMISSED IN PART
AND DENIED IN PART