

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 22, 2010

Lyle W. Cayce
Clerk

No. 09-60458

Summary Calendar

TAWFIK MUTAHAR ABDULLA KASIM, also known as Tawfik Mutahar A. Kassim,

Petitioner

v.

ERIC H. HOLDER, JR., U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A095 263 218

Before GARZA, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:*

Tawfik Mutahar Abdulla Kasim, a native and citizen of Yemen, seeks review of a decision of the Board of Immigration Appeals (BIA) dismissing his appeal from the immigration judge's (IJ) denial of his requests for immigration relief. Kasim contends that he was denied the effective assistance of counsel during his initial immigration hearing because his attorney failed to develop his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

allegation of persecution by the Yemeni Government and effectively waived his claim for immigration relief on that basis. He also challenges as not supported by substantial evidence, the BIA's determination that he was not entitled to asylum or withholding of removal based on his claim of government persecution.

This court lacks jurisdiction to directly consider Kasim's claim of ineffective assistance of counsel because he did not properly raise the issue before the BIA. *See Wang v. Ashcroft*, 260 F.3d 448, 452 (5th Cir. 2001). Kasim has not shown that the BIA abused its discretion in declining to remand his case to the IJ for consideration of that claim. *See Goonsuwan v. Ashcroft*, 252 F.3d 383, 384-91 (5th Cir. 2001); *Ogbemudia v. INS*, 988 F.2d 595, 599-600 (5th Cir. 1993). Finally, the BIA's determination that Kasim was not persecuted by the Yemeni Government is supported by substantial evidence. *See Tesfamichael v. Gonzales*, 469 F.3d 109, 116 (5th Cir. 2006); *Eduard v. Ashcroft*, 379 F.3d 182, 188 (5th Cir. 2004); *Abdel-Masieh v. INS*, 73 F.3d 579, 584 (5th Cir. 1996).

The petition for review is DENIED.