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United States Court of Appeals
For the First Circuit

No. 05-2529

MERSSI HEYDEMANS,

Petitioner,

v.

ALBERTO R. GONZALES, ATTORNEY GENERAL,

Respondent.

ON PETITION FOR REVIEW OF AN ORDER OF
THE BOARD OF IMMIGRATION APPEALS

Before

Selya, Circuit Judge,
Campbell, Senior Circuit Judge,
and Lipez, Circuit Judge.

Merssi Heydemans on brief pro se.

Peter D. Keisler, Assistant Attorney General, Greg D. Mack,
Senior Litigation Counsel, and Jeffrey A. McLellan, Trial Attorney,
on brief for appellee.

August 31, 2006

Per Curiam. Merssi Heydemans seeks review of a Board of Immigration Appeals (BIA) order affirming a decision by an immigration judge (IJ) that found him ineligible to apply for asylum and denied his application for withholding of removal and protection under the Convention Against Torture. For the following reasons, we deny his petition for review.

1. We lack jurisdiction to review the IJ's determination that Heydemans is ineligible for asylum because his application seeking asylum was untimely and he did not qualify for an exception. Hayek v. Gonzales, 445 F.3d 501, 506-07 (1st Cir. 2006) (per curiam).

2. In its decision dated September 15, 2005, the BIA adopted and affirmed the IJ's decision dated April 14, 2004, and so we review the reasoning in the IJ's decision. Id. at 506. The IJ relied on the correct legal standards, and substantial evidence of record supports her decision (she described that evidence in her decision, and we do not repeat it here). Accordingly, the decision to deny the application for withholding of removal and protection under the Convention Against Torture must be upheld. Cf. Nikijuluw v. Gonzalez, 427 F.3d 115, 122 (1st Cir. 2005) (sustaining the denial of an asylum claim by an Indonesian Christian whose church had been burned down because his church was being rebuilt, his Christian family members continued to live safely in Indonesia, and

the country conditions report confirmed that anti-Christian violence had declined significantly).

3. Heydemans offers new materials to support his petition, but we may not consider them because our review is limited to the materials in the appellate record. See 8 U.S.C. § 1252(b)(4)(A).

The petition for review is denied.