

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 06-2311

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DIEUNER AUGUSTIN,

Petitioner,

versus

ALBERTO R. GONZALES, United States Attorney  
General,

Respondent.

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On Petition for Review of an Order of the Board of Immigration  
Appeals. (A95-263-385)

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Submitted: June 27, 2007

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Decided: July 30, 2007

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Before NIEMEYER, MICHAEL, and SHEDD, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Randall L. Johnson, JOHNSON & ASSOCIATES, P.C., Arlington,  
Virginia, for Petitioner. Peter D. Keisler, Assistant Attorney  
General, Linda S. Wendtland, Assistant Director, Ashley B. Han,  
Office of Immigration Litigation, UNITED STATES DEPARTMENT OF  
JUSTICE, Washington, D.C., for Respondent.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dieuner Augustin, a native and citizen of Haiti, petitions for review of an order of the Board of Immigration Appeals (Board) adopting and affirming the immigration judge's denial of his requests for asylum, withholding of removal, and protection under the Convention Against Torture.\* We deny the petition for review.

To obtain reversal of a determination denying eligibility for asylum 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 evidence of record and conclude that Augustin fails to show the evidence compels a contrary result. Accordingly, we cannot grant the relief that he seeks.

Additionally, we uphold the immigration judge's denial of Augustin's request for withholding of removal. "Because the burden of proof for withholding of removal is higher than for asylum—even though the facts that must be proved are the same—an applicant who is ineligible for asylum is necessarily ineligible for withholding of removal under [8 U.S.C.] § 1231(b)(3) [(2000)]." Camara v.

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\*Augustin does not challenge on appeal the denial of protection under the Convention Against Torture. We therefore find that he has waived appellate review of this claim. See Edwards v. City of Goldsboro, 178 F.3d 231, 241 n.6 (4th Cir. 1999).

Ashcroft, 378 F.3d 361, 367 (4th Cir. 2004). Because Augustin fails to show that he is eligible for asylum, he cannot meet the higher standard for withholding of removal.

Accordingly, we deny 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 DENIED