



## Woldu v. Gonzales

209 Fed.Appx. 380 (2006) | Cited 0 times | Fifth Circuit | December 7, 2006

Unpublished Opinion

Summary Calendar

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

Daniel Ghebremariam Woldu, a native and citizen of Eritrea, petitions this court for review of the Board of Immigration Appeals' (BIA) decision affirming the Immigration Judge's (IJ) denial of his application for asylum. Woldu contends that the BIA's decision is not supported by substantial evidence because he established past persecution and a well-founded fear of future persecution. Woldu does not challenge the denial of his application for withholding of removal or relief under the Convention Against Torture. Therefore, these issues are waived. See *Thuri v. Ashcroft*, 380 F.3d 788, 793 (5th Cir. 2004). Further, the BIA's determination that Woldu failed to establish past persecution is supported by substantial evidence, and the record does not compel a contrary conclusion. See *Mikhael v. INS*, 115 F.3d 299, 304 (5th Cir. 1997).

However, in considering Woldu's well-founded fear of persecution claim, the IJ relied on Woldu's past treatment in Eritrea to support his determination that there was no basis for Woldu's alleged fear of future persecution. Further, the IJ and BIA failed to address relevant evidence presented by Woldu to support this claim. Therefore, the BIA's decision fails to reflect meaningful consideration of all the relevant and substantial evidence supporting Woldu's fear of future persecution claim. See *Abdel-Masieh v. INS*, 73 F.3d 579, 584-85 (5th Cir. 1996). Accordingly, the petition for review is GRANTED, the BIA's removal order is VACATED, and the case is REMANDED to the BIA for further proceedings consistent with this opinion. This court does not, however, intimate what conclusion the BIA should reach on remand.

In light of the foregoing, Woldu's motion for a stay of removal is DENIED AS MOOT.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

