

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-13628
Non-Argument Calendar

Agency No. A215-949-387

MOHAMMED RIFAT SARDER,

Petitioner,

versus

U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals

(August 5, 2020)

Before NEWSOM, BRANCH, and LAGOA, Circuit Judges.

PER CURIAM:

Mohammed Sarder seeks review of the Board of Immigration Appeals' ("BIA") decision adopting and affirming the Immigration Judge's ("IJ") denial of Sarder's application for asylum, withholding of removal under the Immigration and Nationality Act ("INA"), and relief under the United Nations Convention

Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”). He argues that the IJ violated his due process rights by failing to grant him more time to obtain corroborating documents, thereby denying him a meaningful opportunity for a hearing. He also argues that the record compels a finding that he is eligible for asylum, withholding of removal, and CAT relief. Because Sarder failed to exhaust these claims before the BIA, we lack jurisdiction to review them. Accordingly, we dismiss the petition.

I.

A. Immigration Court Proceedings

Sarder, a native and citizen of Bangladesh, entered the United States without inspection in October 2018. After being served with a notice to appear and admitting removability as an alien present in the United States without being admitted or paroled, Sarder, proceeding *pro se*, filed an application for asylum, withholding of removal, and CAT relief based on political opinion.

At the merits hearing on his application, Sarder testified that he left Bangladesh due to “political problems.” Specifically, he testified that because he was active in the Liberal Democratic Party (“LDP”),¹ supporters of the opposing, controlling political party—the Awami League—threatened him “many times,”

¹ He did not have any corroborating proof of his membership but claimed that he was the “sub-general secretary” in the LDP’s “Union no.1.”

and beat him on two occasions. The beatings took place in October 2016 and March 2018 at, or near, the grocery store he owned and each resulted in a multiday hospital stay. The IJ asked if Sarder had any documents verifying his hospital stays, and Sarder stated he depended on his elderly mother to obtain the documents and she needed more time to obtain them. Accordingly, Sarder asked the IJ for an additional six weeks to file supporting documents. The IJ asked if Sarder had any letters from the locals who took him to the hospital following the beatings, and Sarder stated that “they definitely will give the letter if you give me some time.” The IJ responded that Sarder “already had a lot of time to try to obtain the documents.”²

Sarder explained that following the first beating, he complained to LDP leadership, who advised him that the police were under Awami League control and therefore would not assist him. Nevertheless, he went to the police station with an LDP representative and reported the attack, as well as the identities of the attackers. The police told him that they would “look into [the attack] later on, but right now [they would not] be able to take any case against [the attackers].” Sarder did not have a letter from the LDP representative who went to the police station with him or a copy of his police report.

² On January 15, 2019, when calendaring the merits hearing for April 4, 2019, the IJ informed Sarder that if he had any police reports or medical records from his home country to support his claim, Sarder needed to obtain copies of those documents for the merits hearing.

Following the second attack by those same Awami League supporters, Sarder closed his store and went to live with his aunt in Dhaka, which is approximately four to eight hours away from his home village by bus. Sarder left Bangladesh for the United States when a fellow LDP member from his home village told him that the Awami League supporters who had twice attacked him were looking for him and had learned he was in Dhaka. Sarder testified that he believed that the six attackers were capable of finding him anywhere in Bangladesh and would kill him if they found him. His immediate family, however, continued to live in Dhaka with Sarder's aunt, unharmed. Sarder did not obtain any letters from his family in Dhaka confirming that he stayed with them.

The IJ issued an oral decision denying Sarder's application for asylum, withholding of removal, and CAT relief. The IJ first found that Sarder had "unquestionably not corroborated his claim." Furthermore, the IJ found that Sarder had not established an entitlement to relief on the merits. Specifically, Sarder did not establish past persecution because he had not shown severe enough harm. The IJ further found that the harm Sarder suffered was at the hands of private actors—not Awami League officials, but rather mere supporters of the party. The IJ further found that Sarder failed to show that he could not have relocated elsewhere in Bangladesh to avoid harm. Similarly, the IJ also found that Sarder had not shown a fear of future persecution, emphasizing that his family, including his father who

was also an LDP member, continued to live safely in Dhaka, a city of nine million people. Consequently, the IJ concluded that Sarder could not meet his burden of proof for asylum, or the higher burden of showing he was eligible for withholding of removal. Finally, the IJ found that Sarder was not eligible for CAT relief because he had not shown that any public official or persons acting with the acquiescence or consent of public officials would seek to harm him upon his return to Bangladesh.

B. Proceedings Before the BIA

Sarder obtained counsel and filed a notice of appeal (“NOA”) to the BIA. In the NOA, he summarily asserted that: (1) “[t]he denial of asylum and withholding(s) is arbitrary, capricious and bad in law and facts”; (2) the IJ failed to consider “the totality of the testimony” and that he met his burden of proof for asylum; (3) “[t]he denial of Asylum raises substantial legal issues and factual issues in dispute”; (4) the IJ’s denial of the petition was not supported by “any legible and plausible reasons”; (5) “[t]he [IJ] erred by making speculative finding facts based on assumption, speculation, and hunch despite [Sarder’s] consistent detail testimony and ongoing fear of the Awami League . . . because of [Sarder’s] political ideology”; (6) the IJ’s finding that Sarder did not have a well-founded fear of future persecution is not supported by the record; (7) unspecified substantial evidence supports his claim for asylum; (8) Sarder’s testimony established a well-

founded fear of future persecution; (9) “[t]he [IJ] was biased and made material and significant errors by denying the Asylum”; (10) the IJ’s determination that Sarder did not meet his burden of proof was “merely a bias finding”; and (11) “[t]he record does not support the [IJ’s] findings as these findings are totally incorrect and without any legal force.” Sarder never filed a separate merits brief to explain or expound upon his bare assertions.

The BIA issued an opinion adopting and affirming the IJ’s decision. It reasoned that Sarder “ha[d] not made any specific arguments regarding the [IJ’s] decision and ha[d] not meaningfully challenge[d] any of the findings of fact or conclusions of law underlying the denial of his applications for relief and protection.” The BIA further reasoned that, based on the record, it saw “no reason to disturb the [IJ]’s reasoned determination” that Sarder failed to provide reasonably available corroborating evidence because had not demonstrated: (i) a nexus to a protected ground; (ii) that authorities in Bangladesh would be unable or unwilling to protect him; (iii) that he could not reasonably relocate within Bangladesh; or (iv) that he could otherwise show his eligibility for asylum, withholding of removal, or CAT protection. Finally, the BIA concluded that Sarder’s due process rights were not violated and that there was nothing in the record that demonstrated the IJ was biased against him. Accordingly, the BIA dismissed Sarder’s appeal. Sarder, through counsel, timely appealed to this Court.

II.

As an initial matter, we must determine whether we have subject matter jurisdiction, which we review *de novo*. *Amaya-Artunduaga v. U.S. Att’y Gen.*, 463 F.3d 1247, 1250 (11th Cir. 2006). “We lack jurisdiction to consider a claim raised in a petition for review unless the petitioner has exhausted his administrative remedies with respect thereto.” *Id.*; *see also* 8 U.S.C. § 1252(d)(1) (“A court may review a final order of removal *only* if . . . the alien has exhausted all administrative remedies available to the alien as of right.” (emphasis added)). “A petitioner has not exhausted a claim unless he has both raised the ‘core issue’ before the BIA, and also set out any discrete arguments he relies on in support of that claim.” *Jeune v. U.S. Att’y Gen.*, 810 F.3d 792, 800 (11th Cir. 2016) (internal citations omitted). “‘Unadorned, conclusory statements do not satisfy this requirement,’ and the petitioner must do more than make a passing reference to the issue.” *Id.* (quoting *Indrawati v. U.S. Att’y Gen.*, 779 F.3d 1284, 1297 (11th Cir. 2015)). In other words, although a petitioner is not required to “‘use precise legal terminology’ or provide well-developed arguments” to exhaust his claim before the BIA, the petitioner must “provide information sufficient to enable the BIA to review and correct any errors below.” *Id.* (quoting *Indrawati*, 779 F.3d at 1297). “These requirements further the purpose of exhaustion: to give the agency a ‘full opportunity’ to consider the petitioner’s claim and to compile a record that will be

adequate for future judicial review.” *Id.* (quoting *Amaya–Artunduaga*, 463 F.3d at 1250).

Here, Sarder argues that the IJ violated his due process rights by not providing him with an opportunity to obtain reasonably available corroborating documentation. But he failed to exhaust this claim before the BIA as he did not reference the issue of corroborating documents or the IJ’s denial of additional time to obtain them. Nor did he present any argument to the BIA that would have fairly raised the core issue of due process. Rather, Sarder provided only conclusory statements that the IJ was biased against him and improperly denied his claims. *See id.* Accordingly, we lack jurisdiction to review this claim.

Similarly, with regard to the denial of his application for asylum, withholding of removal and CAT relief, before the BIA, Sarder merely made conclusory assertions that the record supported his asylum claim and generally quarreled with the denial of relief. But, as noted by the BIA, Sarder failed to “meaningfully challenge[] the findings of fact or conclusions of law underlying the IJ’s denial of his application.” Thus, Sarder’s “unadorned, conclusory” allegations to the BIA were insufficient to preserve the discrete issues he raises before us on appeal concerning the denial of his application for asylum, withholding of removal, and CAT relief. *Jeune*, 810 F.3d at 800. Accordingly, we lack jurisdiction to review these claims.

PETITION DISMISSED.