Vacated by Supreme Court, January 9, 2006

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1553

MOHAMED LAMINE DIAWARA,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General;
DEPARTMENT OF HOMELAND SECURITY,

Respondents.

On Petition for Review of an Order of the Board of Immigration Appeals. (A70-504-480)

Submitted: January 28, 2005 Decided: April 20, 2005

Before WILKINSON, LUTTIG, and DUNCAN, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Theresa I. Obot, LAW OFFICE OF THERESA I. OBOT, Baltimore, Maryland, for Petitioner. Peter D. Keisler, Assistant Attorney General, M. Jocelyn Lopez Wright, Assistant Director, Larry P. Cote, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondents.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Mohamed Lamine Diawara, a native and citizen of Guinea, petitions for review of an order of the Board of Immigration Appeals ("Board") affirming, without opinion, the decision of the immigration judge ("IJ") denying asylum, withholding of deportation, and relief under the Convention Against Torture. We dismiss the petition for lack of jurisdiction.

Diawara challenges the IJ's findings that his asylum application was untimely and he failed to establish extraordinary circumstances for an exception under 8 U.S.C. § 1158(a)(2) (2000). We conclude that we lack jurisdiction to review this claim or the merits of his asylum application. See 8 U.S.C. § 1158(a)(3) (2000); Zaidi v. Ashcroft, 377 F.3d 678, 680-81 (7th Cir. 2004). We also lack jurisdiction over Diawara's challenges to the IJ's denial of withholding of deportation and relief under the Convention Against Torture because he failed to properly exhaust these claims in his appeal to the Board. See 8 U.S.C. § 1252(d) (2000); Asika v. Ashcroft, 362 F.3d 264, 267 n.3 (4th Cir. 2004).

Accordingly, we dismiss 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 DISMISSED