

filed within the one-year statutory filing deadline and Umba had not shown that there were changed country conditions or extraordinary circumstances warranting an extension of the deadline. See 8 U.S.C. § 1158(a)(2)(B) & (D). Indeed, the IJ's decision states that Umba admitted no evidence of changed country conditions or extraordinary circumstance. Consequently, Umba's counsel withdrew the asylum application. See Petition for a Writ of Habeas Corpus at Ex. 2 ("IJ's decision") at 15; see also Ali v. Reno, 22 F.3d 442, 446 (2d Cir. 1994) (attorney's admissions are binding on his client). Because the asylum application was withdrawn, Umba waived his right to assert an asylum claim and cannot now raise it in this court. See Drozd v.INS, 155 F.3d 81, 91 (2d Cir. 1998) (holding that alien's argument had been "waived because it was not raised before the immigration judge or the BIA").

Moreover, even if Umba had not withdrawn his application for asylum, and even if it had been timely filed, this court would lack habeas jurisdiction to review the claim. This is so because of the IJ's finding that Umba's testimony was not credible. Specifically, the IJ found that his "testimony is not fully plausible, detailed and internally consistent." IJ's decision at 18. The court does not have jurisdiction under § 2241 to review an agency's factual findings. See Sol, 274 F.3d at 651. The habeas statute provides for review of statutory or constitutional errors, not factual

findings. See id.

Accordingly, the petition for a writ of habeas corpus [doc. #1] is DENIED. The Government's motion to dismiss [doc. #5] is GRANTED, and the Clerk is directed to CLOSE this case.

SO ORDERED this day of March, 2003 at
Bridgeport, Connecticut.

Alan H. Nevas
United States District Judge