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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BENDER PALL,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 03-71364

Agency No. A076-257-153

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 17, 2008**

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Bender Pall, a native and citizen of India, petitions for review of a Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

judge's ("IJ") decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992), and we deny the petition for review.

Substantial evidence supports the IJ's adverse credibility determination, because the discrepancy between Pall's testimony and his supporting affidavits regarding the issuance of a warrant for his arrest is substantial and goes to the heart of his claim. *See Pal v. INS*, 204 F.3d 935, 938 (9th Cir. 2000); *Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004) (adverse credibility determination is supported where at least one of the identified grounds is supported by substantial evidence and goes to the heart of the claim). In the absence of credible testimony, Pall's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Pall's contention that the BIA's pretermission of his CAT claim violated due process fails because he has not demonstrated prejudice in light of the supported adverse credibility finding and the absence of support for his CAT claim in the record. *See id.* at 1156-57.

Lastly, Pall's asylum claim with respect to Iran lacks merit because the IJ deemed him removable to India, his country of origin and nationality. *See* 8 U.S.C. § 1158(b)(1).

PETITION FOR REVIEW DENIED.