

JAN 20 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HASAN ABBAS; SHAHEEDA PARVIN;
ASHMA HASAN; KANWAL HASAN; et
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-71633

Agency Nos. A075-658-477
A075-658-479
A075-658-478
A075-658-480
A075-658-481

MEMORANDUM*

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

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Hasan Abbas, his wife and three children, natives and citizens of Pakistan,
petition for review of the Board of Immigration Appeals' order summarily

* 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).

affirming an immigration judge's ("IJ") decision denying their application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Singh-Kaur v. INS*, 183 F.3d 1147, 1149 (9th Cir. 1999), and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ's adverse credibility determination because it is based on the omission from Abbas' asylum application and asylum officer interview of the two most significant instances of harm he testified he suffered in Pakistan, *see Li v. Ashcroft*, 378 F.3d 959, 962-63 (9th Cir. 2004), and on the inconsistencies between Abbas' testimony and the testimony and affidavit of the Mohajir Quami Movement ("MQM") official concerning Abbas' activities in support of the MQM, *see Kohli v. Gonzales*, 473 F.3d 1061, 1071 (9th Cir. 2007).

Because Abbas failed to demonstrate eligibility for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Abbas' CAT claim is based on the same testimony the IJ determined was not credible, and Abbas points to no other evidence that IJ should

have considered, he has failed to establish eligibility for CAT relief. *See id.* at 1157.

We lack jurisdiction to consider Abbas' claim that the IJ denied him due process because Abbas failed to exhaust this claim before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (generally requiring exhaustion of due process claims before the BIA).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.