

MAR 26 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LEVON MELIKYAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 05-75353

Agency No. A096-057-854

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Levon Melikyan, a native of the former Soviet Union and citizen of Russia, petitions for review of a Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying his application for asylum,

* 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).

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 deny the petition for review.

The government’s expert testimony and investigation reports from the United States embassy in Moscow provide substantial evidence to support the IJ’s finding that Melikyan submitted false documents. *See Desta v. Ashcroft*, 365 F.3d 741, 745 (9th Cir. 2004). Because the genuineness of these documents went to the heart of Meliyan’s asylum claim, substantial evidence supports the IJ’s adverse credibility determination. *See id.* In the absence of credible evidence, Melikyan’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Melikyan’s CAT claim is based on the same evidence the IJ found not credible, and he points to no other evidence to show it is more likely than not he would be tortured if he returns to Russia, his CAT claim fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.