

MAY 19 2009

Saidani v. Holder, 05-72333

SILVERMAN, Circuit Judge, concurring:

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U.S. COURT OF APPEALS

I concur in the result. The supposed inconsistencies described in Section I of the Memorandum are not inconsistencies at all and do not support an adverse credibility finding. For example, there was nothing inconsistent about Saidani's testimony about his ability to see through his shirt. He said was unable to see when his dress shirt *and* t-shirt had been pulled over his head. When, at a different location, his dress shirt alone was covering his head, he said he could see through the fabric. This is neither inconsistent nor implausible.

The most damning evidence affecting Saidani's credibility was his proffer of a conscription notice addressed to him that was determined to be fraudulent. The IJ was not required to buy Saidani's explanation that he was the innocent recipient of a fraudulent document procured, for reasons unknown, by his sister in Algeria. The circumstances surrounding this document strongly support an adverse inference.