

MAY 26 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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

No. 06-72603

Agency No. A096-178-285

MEMORANDUM*

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

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judge.

Baljit Kumar, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and relief

* 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).

under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the agency’s adverse credibility determination based on Kumar’s admission that he made false statements regarding incidents of past persecution to immigration officials in the United Kingdom, *see Al-Harbi v. INS*, 242 F.3d 882, 889-90 (9th Cir. 2001) (changing story regarding incidents of past persecution supported adverse credibility finding), and his submission of a fraudulent document that goes to the heart of his claim, *see Desta v. Ashcroft*, 365 F.3d 741, 745 (9th Cir. 2004) (use of fraudulent documents supported adverse credibility finding). In the absence of credible testimony, Kumar has failed to establish that he is eligible for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

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

PETITION FOR REVIEW DENIED.