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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KAMALJIT SINGH,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-72779

Agency No. A079-249-234

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Kamaljit Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal,

* 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).

and relief under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 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 both the IJ’s demeanor finding, *see Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999) (special deference given to demeanor findings based on non-verbal communication), and on the inconsistencies between Singh’s testimony and his application, and documentary evidence regarding his membership in any political organization and Singh’s arrests and beatings by the police, *see Li*, 378 F.3d at 962-64 (goes to the heart of the claim). In the absence of credible testimony, Singh failed to establish he is eligible for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

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

PETITION FOR REVIEW DENIED.