

AUG 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BENITO OSWALDO LOL TIZOL,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-73165

Agency No. A070-775-542

MEMORANDUM*

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

Submitted August 11, 2009**

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Benito Oswaldo Lol Tizol, a native and citizen of Guatemala, 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

* 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).

removal, and relief 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 because Lol Tizol’s failure to mention in his initial asylum application that his parents were killed due to his involvement in the civil patrol is a material omission that goes to the heart of his claim. *See id.* at 962-63. Because the agency had reason to question his credibility, Lol Tizol’s failure to provide corroborating evidence further undermines his claim. *See Sidhu v. INS*, 220 F.3d 1085, 1090-92 (9th Cir. 2000). Accordingly, Lol Tizol’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Lol Tizol’s CAT claim is based on the testimony 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 Guatemala, his CAT claim fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.