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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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

No. 06-73266

Agency No. A096-468-063

MEMORANDUM*

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

August 11, 2009**

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

Baljit Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order affirming an immigration judge's decision denying his application for withholding of removal and protection under the Convention

* 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).

Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252.

Reviewing for substantial evidence, *Don v. Gonzales*, 476 F.3d 738, 741 (9th Cir. 2007), we deny the petition for review.

Substantial evidence supports the agency’s adverse credibility determination based on the inconsistencies between Singh’s testimony and his asylum declaration regarding the extent of his affiliation with the Babbar Khalsa Party which goes to the heart of his claim, *see id.* at 741-42, and based on Singh’s failure to call his mother as a witness, *see Sidhu v. INS*, 220 F.3d 1085, 1091 (9th Cir. 2000) (“[W]here the IJ has reason to question the applicant’s credibility, and the applicant fails to produce non-duplicative, material, easily available corroborating evidence and provides no credible explanation for such failure, an adverse credibility finding will withstand appellate review.”).

In the absence of credible testimony, Singh failed to establish he is eligible for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Singh’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 he returned to India, his CAT claim fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.