

AUG 17 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARBEN REXHAJ; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 06-75397

Agency Nos. A078-818-888
A078-818-889
A078-818-890
A078-818-891

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.

Arben Rexhaj, his wife, Drita Rexhaj, and their minor sons, natives and citizens of Albania, petition for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying their

* 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).

application for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the IJ’s adverse credibility determination, *Gui v. INS*, 280 F.3d 1217, 1225 (9th Cir. 2002), and we deny the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination because Rexhaj testified about his alleged mistreatment in an internally inconsistent manner. *See Goel v. Gonzales*, 490 F.3d 735, 739 (9th Cir. 2007) (inconsistencies between testimony and documentary evidence support an adverse credibility finding where inconsistencies go to the heart of the claim).

In the absence of credible testimony, Rexhaj failed to establish eligibility for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Finally, because Rexhaj’s CAT claim is based on the same testimony that IJ found not credible, and he points to no other evidence the IJ should have considered, substantial evidence supports the IJ’s denial of CAT relief. *See id.* at 1157.

PETITION FOR REVIEW DENIED.