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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BUDHY WALUYO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-71110

Agency No. A095-634-674

MEMORANDUM*

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

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Budhy Waluyo, a native and citizen of Indonesia, 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 protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *Husyev v. Mukasey*, 528 F.3d 1172, 1177 (9th Cir. 2008), and we deny the petition.

Substantial evidence supports the IJ’s adverse credibility determination because Waluyo’s initial declaration omitted the threats, attack, and injury that led to his flight from Indonesia, *see Alvarez-Santos v. INS*, 332 F.3d 1245, 1254 (9th Cir. 2003) (petitioner’s omission of a “dramatic pivotal event” from his asylum application supported adverse credibility determination), and because Waluyo testified inconsistently about his injury during this incident, *see Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004). In the absence of credible testimony, Waluyo’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Waluyo’s CAT claim is based on the testimony the IJ found not credible, and Waluyo points to no other evidence to show it is more likely than not he would be tortured if returned to Indonesia, his CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.