

DEC 16 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PARMINDER SINGH,

Petitioner,

v.

ERIC H. HOLDER JR., Attorney General,

Respondent.

No. 05-77057

Agency No. A077-852-529

MEMORANDUM*

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

Argued and Submitted December 7, 2009
San Francisco, California

Before: TASHIMA, GRABER, and BYBEE, Circuit Judges.

Parminder Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition for review.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

We agree with the BIA that the inconsistencies in Singh's asylum application go beyond "minor" inconsistencies. The conflict in the evidence over Singh's arrest and the time he spent in the hospital in January 1993 calls into doubt whether the arrest actually occurred. This inconsistency "'relates to the basis for [his] alleged fear of persecution,'" and therefore goes to the heart of his asylum claim. See *Don v. Gonzales*, 476 F.3d 738, 741-42 (9th Cir. 2007) (quoting *Singh v. Gonzales*, 439 F.3d 1100, 1108 (9th Cir. 2006)). Further, the immigration judge ("IJ") based his credibility determination, in part, on Singh's demeanor. We give credibility determinations that are based on demeanor "special deference." *Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999).

Substantial evidence supported the IJ's adverse credibility determination. *Don*, 476 F.3d at 741. Accordingly, the petition for review is **DENIED**.