

DEC 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KSENIYA KULYAKINA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71721

Agency No. A097-364-440

MEMORANDUM*

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

Kseniya Kulyakina, a native and citizen of Russia, petitions pro se for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's ("IJ") decision denying her application for asylum,

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

** The panel unanimously concludes this is case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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, *Singh v. Ashcroft*, 367 F.3d 1139, 1143 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the adverse credibility determination based on the IJ’s demeanor finding, *see Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999) (special deference given to demeanor findings based on non-verbal communication) and Kulyakina’s misrepresentation concerning her home address for purposes of her asylum application, *see Kaur v. Gonzales*, 418 F.3d 1061, 1066-67 (9th Cir. 2005) (lying on an asylum application is an “indication of dishonesty”). In the absence of credible testimony, Kulyakina failed to establish eligibility for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Kulyakina’s CAT claim is based on the same evidence the agency found not credible and she points to no further evidence to show it is more likely than not she would be tortured if returned to Russia, her CAT claim fails. *See id.* at 1157.

Kulyakina’s motion to accept supporting documents is denied.

PETITION FOR REVIEW DENIED.