

DEC 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HAKUMAT SINGH RAI,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-73875

Agency No. A076-841-572

MEMORANDUM*

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

Submitted December 15, 2009**

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

Hakumat Singh Rai, a native and citizen of India, 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 concludes this case is 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 under 8 U.S.C. § 1252. We review for substantial evidence, *Don v. Gonzales*, 476 F.3d 738, 741 (9th Cir. 2007), and we deny the petition.

The record does not compel reversal of the IJ’s adverse credibility determination based on Rai’s lack of knowledge regarding the political party which he supported, *see Singh v. Ashcroft*, 367 F.3d 1139, 1143 (9th Cir. 2004), as well as inconsistencies in Rai’s testimony as to the date that he began supporting his political party, *see Don*, 476 F.3d at 741-42. In the absence of credible testimony, Rai’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Rai’s CAT claim is based on the same evidence that the agency found not credible, and he points to no other evidence showing it is more likely than not he would be tortured if he returns to India, Rai’s CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.