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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HOVHANNES AVETISYAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-70812

Agency No. A095-189-504

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.

Hovhannes Avetisyan, a native and citizen of Armenia, petitions for review from the Board of Immigration Appeals’ (“BIA”) order summarily affirming an immigration judge’s (“IJ”) decision denying his 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 case is 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”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Wang v. Ashcroft*, 341 F.3d 1015, 1021 (9th Cir. 2003), and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ’s adverse credibility finding based upon Avetisyan’s submission of a fraudulent newspaper article, hospital certificate, and National Democratic Union card. *See Desta v. Ashcroft*, 365 F.3d 741, 745 (9th Cir. 2004) (fraudulent documents going to the heart of the claim may justify an adverse credibility finding). Therefore, Avetisyan’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Avetisyan failed to exhaust his challenge to the IJ’s frivolousness finding before the BIA, and therefore we dismiss the petition for review as to that claim. *See Zara v. Ashcroft*, 383 F.3d 927, 930 (9th Cir. 2004).

In his opening brief Avetisyan failed to challenge to the IJ’s denial of his CAT claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not raised are waived).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.