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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MUKESH KUMAR,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-73142

Agency No. A097-108-486

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Mukesh Kumar, a native and citizen of India, petitions for review of the Board of Immigration Appeals’ order dismissing an appeal from an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review the adverse credibility finding for substantial evidence. *See Rivera v. Mukasey*, 508 F.3d 1271, 1274 (9th Cir. 2007).

We deny the petition for review.

Substantial evidence supports the agency's adverse credibility determination because Kumar's testimony was inconsistent with his asylum application. *See Chebchoub v. INS.*, 257 F.3d 1038, 1043 (9th Cir. 2001). Specifically, Kumar's testimony included additional incidents which were not included in his asylum application and Kumar failed to adequately explain these differences. *See Li v. Ashcroft*, 378 F.3d 959, 962-64 (9th Cir. 2004). Accordingly, Kumar's asylum and withholding of removal claims fail.

Substantial evidence also supports the agency's denial of CAT relief because Kumar failed to establish that it is more likely than not that he will be tortured upon return to India. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.