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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SEDRAK SARGSYAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-70914

Agency No. A098-510-670

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.

Sedrak Sargsyan, a native and citizen of Armenia, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture

* 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).

(“CAT”). We have 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, *see Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001), specifically the agency’s findings that Sargsyan’s testimony was inconsistent with his asylum application regarding physical abuse during custody and whether he had contact with anyone during custody, *see Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004). Accordingly, Sargsyan’s asylum and withholding of removal claims fail.

Substantial evidence supports the agency’s determination that Sargsyan is not entitled to CAT relief because he failed to demonstrate that it is more likely than not that he will be tortured upon return to Armenia. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

We cannot review the additional evidence Sargsyan submitted here because it is not part of the administrative record. *See* 8 U.S.C. § 1252(b)(4).

PETITION FOR REVIEW DENIED.