

JAN 20 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KALWINDERJIT,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71890

Agency No. A098-816-973

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.

Kalwinderjit, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision ("IJ") 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 pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *Husyev v. Mukasey*, 528 F.3d 1172, 1177 (9th Cir. 2008), and we deny the petition for review.

In his opening brief, Kalwinderjit fails to challenge the agency’s dispositive determination that his asylum claim is time-barred. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not supported by argument are deemed waived).

Substantial evidence supports the agency’s adverse credibility determination because Kalwinderjit’s vague and inconsistent testimony as to when he hid in the garbage container to elude his persecutors gave the IJ reason to question Kalwinderjit’s credibility and Kalwinderjit failed to provide corroborating evidence to support his claim of memory loss. *See Sidhu v. INS*, 220 F.3d 1085, 1091-92 (9th Cir. 2000). In the absence of credible testimony, Kalwinderjit’s withholding of removal claim fails. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Kalwinderjit’s CAT claim is based on the same statements the agency found not credible, and no other evidence shows it is more likely than not

he would be tortured if returned to Indonesia, substantial evidence supports the agency's denial of CAT relief. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.