

FEB 23 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BACHITTAR SINGH CHOCHAN,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71893

Agency No. A095-599-669

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Bachittar Singh Chohan, a native and citizen of India, petitions for review of a 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 relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an IJ’s adverse credibility finding. *Don v. Gonzales*, 476 F.3d 738, 741 (9th Cir. 2007). We deny the petition for review.

The agency found Chohan not credible, *inter alia*, because there were inconsistencies regarding the circumstances of Chohan’s son’s two arrests and releases from detention, and the agency reasonably rejected Chohan’s proffered explanation for the inconsistencies. *See Chebchoub v. INS*, 257 F.3d 1038, 1042-43 (9th Cir. 2001) (substantial evidence supports adverse credibility determination based on inconsistencies that go to heart of the claim). Substantial evidence also supports the agency’s credibility determination based on the IJ’s demeanor finding, *see Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 2003) (special deference given to demeanor findings based on non-verbal communications), and based on Chohan’s failure to provide corroboration, *see Sidhu v. INS*, 220 F.3d 1085, 1092 (9th Cir. 2000) (“where the [agency] has reason to question the applicant’s credibility, and the applicant fails to produce non-duplicative, material, easily available corroborating evidence and provides no credible explanation for such failure, an adverse credibility finding will withstand appellate review.”). In the

absence of credible testimony, Chohan's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Chohan's CAT claim is based on the testimony the agency found not credible, and he points to no evidence showing it is more likely than not he will be tortured in India, his CAT claim also fails. *Id.* at 1156-57.

Petitioner's motion to substitute counsel is granted.

PETITION FOR REVIEW DENIED.