

APR 16 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VARDUHI MKRTCHYAN,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-70147

Agency No. A075-741-570

MEMORANDUM*

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

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Varduhi Mkrтчhyan, a native of Iran and citizen of Armenia, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's ("IJ") decision denying her 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 for substantial evidence, *Sidhu v. INS*, 220 F.3d 1085, 1088 (9th Cir. 2000), and we deny the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination based on Mkrtchyan’s omission from her asylum application that she was knocked unconscious during the 1997 attack, *see Kohli v. Gonzales*, 473 F.3d 1061, 1071 (9th Cir. 2007), as well as the discrepancies between Mkrtchyan’s testimony and documentary evidence regarding the length of her hospitalization and the cause of her husband’s death, *see Goel v. Gonzales*, 490 F.3d 735, 739 (9th Cir. 2007) (inconsistencies between testimony and documentary evidence support an adverse credibility finding where inconsistencies go to the heart of the claim). The IJ reasonably found Mkrtchyan’s explanations for the omission and discrepancies unconvincing. *See Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007). In the absence of credible testimony, Mkrtchyan’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Mkrtchyan’s CAT claim is based on the same testimony the IJ found to be not credible, and Mkrtchyan points to no other evidence the agency

should have considered, her CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.