

MAY 13 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SATINDER SINGH BAIDWAN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 05-76626

Agency No. A097-102-668

MEMORANDUM\*

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

Submitted April 16, 2010\*\*  
San Francisco, California

Before: ARCHER, Senior Circuit Judge,<sup>\*\*\*</sup> and CALLAHAN and BEA, Circuit Judges.

Satinder Singh Baidwan, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an

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\* 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).

\*\*\* The Honorable Glenn L. Archer, Jr., United States Circuit Judge for the Federal Circuit, sitting by designation.

immigration judge 's ("IJ") decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT").<sup>1</sup>

We lack jurisdiction to review the IJ's determination that Baidwan's asylum application was untimely because that finding is based on disputed facts. *See* 8 U.S.C. § 1158(a)(3); *cf. Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam). Accordingly, we dismiss the petition for review as to Baidwan's asylum claim.

Substantial evidence supports the IJ's adverse credibility determination because the discrepancies regarding the circumstances of his third arrest go to the heart of his claims. *See Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir.2004). Accordingly, Baidwan's withholding of removal claim fails.

Because Baidwan's CAT claim is based on the same testimony the IJ found not credible, and he offers no other evidence the agency should have considered, he has failed to establish eligibility for CAT relief. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**

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<sup>1</sup> Because the parties are familiar with the facts of this case, we repeat them here only as necessary to the disposition of this case.