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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DALIP SINGH,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-74619

Agency No. A077-424-559

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Dalip Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and

* 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).

protection under the Convention Against Torture (“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 deny the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination based on both the inconsistency between Singh’s testimony and the medical documents regarding the reasons for his hospitalizations, and the omission from Singh’s wife’s first affidavit of his December 1997 arrest and detention. *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). Singh’s explanation for the omission from his wife’s affidavit does not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). Accordingly, in the absence of credible testimony, Singh’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Singh’s CAT claim is based on the same evidence the IJ found not credible, and no other evidence in the record compels a finding that it is more likely than not Singh would be tortured if returned to India, Singh’s CAT claim also fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.