

SEP 07 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BENJAMIN GHEORGHE SILAGHI,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-74378

Agency No. A078-650-501

MEMORANDUM*

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

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Benjamin Gheorghe Silaghi, a native and citizen of Romania, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”).

* 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).

Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review Silaghi's contentions regarding the IJ's determination that his asylum application was time-barred because he did not exhaust the issue before the BIA. *See Abebe v. Mukasey*, 554 F.3d 1203, 1208 (9th Cir. 2009) (en banc) (petitioner did not exhaust claim where he filed brief to the BIA and the brief did not raise the issue). Silaghi also failed to exhaust any challenge to the IJ's denial of CAT relief. *See id.*

Substantial evidence supports the agency's adverse credibility determination because Silaghi testified he knew his asylum application contained false statements regarding alleged incidents of persecution, yet he failed to submit an amended application or disclose the false information until confronted on cross-examination, *see Martinez v. Holder*, 557 F.3d 1059, 1065 (9th Cir. 2009), and his explanation for making the false statements does not compel a contrary conclusion, *see Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). In the absence of credible testimony, Silaghi's withholding of removal claim fails. *See Farah*, 348 F.3d at 1156.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.