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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

IVAN ARGUIROV GUEORGUOV,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-73771

Agency No. A096-219-330

MEMORANDUM*

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

Submitted October 4, 2010**
San Francisco, California

Before: HUG, RYMER and N.R. SMITH, Circuit Judges.

Ivan Arguirov Gueorguov (“petitioner”), a native and citizen of Bulgaria, petitions for review of a decision of the Board of Immigration Appeals (“BIA”) adopting and affirming an immigration judge’s (“IJ”) denial of his claims for asylum, withholding of removal, and relief 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. The BIA expressly adopted the IJ’s decision under *Matter of Burbano* (without constricting the scope of its opinion), thus we review both the IJ’s and BIA’s decision. *See Abebe v. Gonzales*, 432 F.3d 1037, 1039 (9th Cir. 2005) (en banc). We review an adverse credibility determination for substantial evidence. *Sidhu v. INS*, 220 F.3d 1085, 1088 (9th Cir. 2000). Credibility findings will be upheld unless evidence compels a contrary result. *Don v. Gonzales*, 476 F.3d 738, 741 (9th Cir. 2007). This court reviews for substantial evidence factual findings underlying the denial of relief under CAT. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We deny the petition.

Petitioner fails to present any argument in his opening brief regarding the IJ’s denial of his asylum claim based on its untimely submission under 8 U.S.C. § 1158(a)(2)(B). Because petitioner fails to challenge the denial of his asylum claim as time-barred, the claim is waived. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (finding that issues not supported by argument in a party’s opening brief are deemed waived.)

Substantial evidence supports the IJ’s denial of withholding of removal based on an adverse credibility finding. Because petitioner provided inconsistent statements regarding the basis of his persecution in interviews with immigration

officials and in his asylum application, the adverse credibility finding is supported. *See Kohli v. Gonzales*, 473 F.3d 1061, 1071 (9th Cir. 2007); *Don v. Gonzales*, 476 F.3d 738, 741-43 (9th Cir. 2007).

Because petitioner's CAT claim is based on the same incredible testimony and he points to no other evidence the IJ should have considered, substantial evidence also supports the denial of CAT relief. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003). Further, petitioner has not shown it is more likely than not he would be tortured if removed to Bulgaria. *See Wakkary v. Holder*, 558 F.3d 1049, 1067-68 (9th Cir. 2009).

PETITION FOR REVIEW DENIED.