

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YAYAH JALLOH,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-73871

Agency No. A078-649-115

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Yayah Jalloh, a native and citizen of Sierra Leone, 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, 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”), and voluntary departure. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination based on Jalloh’s testimony that he paid an agent to obtain his passport and identity cards and implausibilities regarding the making of his identity documents, *see Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003) (upholding adverse credibility finding where inconsistencies went to key elements of the asylum claim, including identity), and based on the inconsistencies between Jalloh’s testimony and asylum application that go to the heart of his claim, *see Li*, 378 F.3d at 962-63. Accordingly, in the absence of credible testimony, Jalloh’s asylum and withholding of removal claims fail. *See Farah*, 348 F.3d at 1156.

Because Jalloh’s CAT claim is based on the testimony the agency found not credible, and he points to no other evidence to show it is more likely than not he would be tortured if returned to Sierra Leone, his CAT claim also fails. *See id.* at 1156-57.

We lack jurisdiction to review Jalloh's voluntary departure claim because he failed to exhaust it before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.