

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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

No. 07-75047

Agency No. A098-464-646

MEMORANDUM*

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

Submitted December 14, 2010 **

Before: GOODWIN, WALLACE, and THOMAS, Circuit Judges.

Kulwant Singh, a native and citizen of India, petitions for review of an order from the Board of Immigration Appeals (“BIA”) affirming the Immigration Judge’s (“IJ”) denial of his application for asylum, withholding of removal, and Convention Against Torture (“CAT”) relief. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. The BIA's denial of asylum and denial of relief under CAT is reviewed for substantial evidence. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We deny the petition.

Singh has not met his burden to establish eligibility for asylum. *See Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006) (holding that an alien must show either past persecution or a well founded fear of future persecution "on account of race, religion, nationality, membership in a particular social group, or political opinion") (citing 8 U.S.C. § 1101(a)(42)(A)).

Singh's testimony that thirty years ago his classmates discriminated against him often and beat him one time because he was a member of the Dalit or "untouchable" caste does not rise to the level of persecution. *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003) (harassment, threats, and one beating unconnected with any particular threat did not compel finding of past persecution). Moreover, evidence that other members of higher castes beat him twice, falsely reported to police that he was a terrorist, and may have burned his shop also does not warrant relief. Caste-based discrimination is unlawful in India,¹ and Singh presents no evidence that he reported these events to authorities, or that the government is otherwise unable or unwilling to protect him. *See Gormley v.*

¹Bureau of Democracy, Human Rights, and Labor, United States Dep't of State, 2004 Country Report on Human Rights Practices – India, 21 (Feb. 28, 2005).

Ashcroft, 364 F.3d 1172, 1177 (9th Cir. 2004). In addition, there is no evidence that the authorities' mistreatment of Singh during their investigation of him for terrorism was motivated by his status as a Dalit, rather than being "directed at the legitimate goal of finding evidence of crime." See *Dinu v. Ashcroft*, 372 F.3d 1041, 1044-45 (9th Cir. 2004).

Because the BIA determined that Singh did not meet the requirements for a grant of asylum, it properly determined that he also did not meet the requirements for withholding of removal. See *Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010).

Finally, there is no evidence in the record that would compel a determination that it is more likely than not that Singh would be tortured if he returned to India. Thus, he is not entitled to CAT relief. See *Silaya*, 524 F.3d at 1073; *Kumar v. Gonzales*, 444 F.3d 1043, 1055 (9th Cir. 2006).

PETITION DENIED.