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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GLORIA CRUZ RAUNO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-70712

Agency No. A073-929-876

MEMORANDUM*

GLORIA CRUZ RAUNO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-72238

Agency No. A073-929-876

GLORIA CRUZ RAUNO,

Petitioner,

v.

No. 07-72943

Agency No. A073-929-876

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

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

Argued and Submitted February 18, 2011
Pasadena, California

Before: ALARCÓN, RYMER, and BYBEE, Circuit Judges.

Gloria Cruz Rauno, a native and citizen of Guatemala, appeals a decision by the Board of Immigration Appeals (BIA) denying her application for asylum, withholding of removal, and protection under the Convention Against Torture from Guatemala. We have jurisdiction under 8 U.S.C. § 1252 and grant the petition.

Although deference is due to the agency's credibility determinations, *see Shrestha v. Holder*, 590 F.3d 1034, 1041-42 (9th Cir. 2010), in this case the IJ's adverse credibility finding, which the BIA did not disturb, is not supported by substantial evidence. With one exception, the inconsistencies identified are simply not inconsistencies at all. Ruano's statement at the border does differ from her later statement to the asylum officer and IJ, but it cannot carry the day. *See Singh v. INS*, 292 F.3d 1017, 1022-24 (9th Cir. 2002). The merits of Ruano's application are not before us, nor did the BIA rule on the merits. Therefore, we remand so that

the BIA may determine in the first instance Rauno's eligibility for relief in light of her credible testimony. *See INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam).

GRANTED.