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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JAMES JEGANGA GUGUNI,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 07-71738

Agency No. A079-358-447

MEMORANDUM\*

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

Submitted March 8, 2011\*\*

Before: FARRIS, O’SCANNLAIN, and BYBEE, Circuit Judges.

James Jeganga Guguni, a native and citizen of Kenya, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have

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\* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Rivera v. Mukasey*, 508 F.3d 1271, 1274 (9th Cir. 2007) , and we deny the petition for review.

Substantial evidence supports the agency's adverse credibility finding because the inconsistencies regarding the circumstances of the December 1993 arrest and the length of Guguni's detention following that arrest go to the heart of his claim. *See Li v. Ashcroft*, 378 F.3d 959, 962-64 (9th Cir. 2004) (as long as one of the identified grounds is supported by substantial evidence and goes to the heart of the claim, we are bound to accept the agency's adverse credibility finding). The agency properly considered and rejected Guguni's explanations for those inconsistencies. *See id.* at 963.

In the absence of credible testimony, Guguni's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Guguni's CAT claim is based on 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 he is returned to Kenya, his CAT claim fails. *See id.* at 1156-57.

**PETITION FOR REVIEW DENIED.**