

AUG 22 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SENİK SARGSYAN, a.k.a. Arthur Galikyan,</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>
--

No. 08-71400

Agency No. A095-721-745

MEMORANDUM*

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

Submitted August 11, 2011**

Before: THOMAS, SILVERMAN, and CLIFTON, Circuit Judges.

Senik Sargsyan, a native and citizen of Armenia, 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 protection under the Convention Against Torture (“CAT”). We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, applying the standards governing adverse credibility determinations created by the REAL ID Act, *Shrestha v. Holder*, 590 F.3d 1034, 1039 (9th Cir. 2010), and we deny the petition for review.

The agency found Sargsyan not credible for several reasons, including inconsistent testimony regarding whether the military prosecutors pointed a gun at his head during his interview, inconsistent testimony regarding whether the police were prosecuting or covering up the murder, and an omission from Sargsyan’s statement to the asylum officer of his kidnaping and beating at the construction site. The agency rejected Sargsyan’s explanations for these inconsistencies and omission. Substantial evidence supports the agency’s adverse credibility determination. *See id.* at 1040-44 (adverse credibility determination was reasonable under the REAL ID Act’s “totality of the circumstances”); *see also Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007) (upholding agency finding that explanations were insufficient). In the absence of credible testimony, Sargsyan’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Sargsyan’s CAT claim is based on the same testimony found to be not credible, and he does not point to any evidence that shows it is more likely than

not that he would be tortured if returned to Armenia, his CAT claim also fails. *See id.* at 1156–57.

PETITION FOR REVIEW DENIED.