

JAN 24 2012

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LUSIK MKHITARYAN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70282

Agency No. A098-516-323

MEMORANDUM*

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

Submitted January 17, 2012**

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Lusik Mkhitarian, a native of the Soviet Union and citizen of Armenia, petitions pro se for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her application for asylum, withholding of removal, and protection under the Convention Against

* 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).

Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, including adverse credibility determinations. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001). We deny the petition for review.

Substantial evidence supports the agency’s adverse credibility determination because Mkhitarian’s testimony that she sought a visa after her release from the hospital is inconsistent with the record evidence, *see Chebchoub*, 257 F.3d at 1043 (an inconsistency goes to the heart of a claim if it concerns events central to the alien’s version of why she was persecuted and fled), and the agency reasonably rejected her explanations, *see Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007). In the absence of credible testimony, Mkhitarian’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Mkhitarian’s CAT claim is based on the same testimony found to be not credible, and she does not point to any other evidence that shows it is more likely than not she would be tortured if returned to Armenia, her CAT claim also fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.