

MAR 13 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARMAN ARAKELYAN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-75222

Agency No. A097-877-505

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Arman Arakelyan, a native and citizen of Armenia, petitions for review of the Board of Immigration Appeals' ("BIA") 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

* 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 the agency's findings of fact, including credibility findings. *Tekle v. Mukasey*, 533 F.3d 1044, 1051 (9th Cir. 2008). We grant the petition for review and we remand.

Substantial evidence does not support the BIA's adverse credibility finding because the inconsistencies the BIA identified between Arakelyan's testimony and his documentary evidence regarding the closure of his business and the year his nonprofit joined an opposition alliance do not go to the heart of his claim. *See Singh v. Gonzales*, 439 F.3d 1100, 1106, 1108-09 (9th Cir. 2006) (inconsistencies in who paid bribe to secure petitioner's release and number of times petitioner transported protesters did not support adverse credibility finding). Accordingly, we remand Arakelyan's asylum, withholding of removal, and CAT claims on an open record for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam); *Soto-Olarte v. Holder*, 555 F.3d 1089, 1095-96 (9th Cir. 2009).

We grant Arakelyan's counsel's motion to withdraw as attorney of record. The Clerk shall amend the docket to reflect that Arakelyan is proceeding pro se. The Clerk shall serve this order on Arakelyan at the address provided in counsel's motion to withdraw: 1011 Palmer Ave. #23, Glendale, CA 91205.

PETITION FOR REVIEW GRANTED; REMANDED.