

MAR 13 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SURINDER SAINI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71237

Agency No. A097-102-403

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.

Surinder Saini, a native and citizen of India, 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, *Kin v. Holder*, 595 F.3d 1050, 1054 (9th Cir. 2010), and we deny the petition for review.

Substantial evidence supports the agency's adverse credibility determination because Saini's testimony was internally inconsistent and inconsistent with his declaration regarding the circumstances of his arrest and release, including the date of the arrest and whether Amrik Singh was released from custody with Saini or had been handed over to the Punjab police. *See id.* at 1058 (inconsistencies regarding petitioners' arrests and release went to the heart of the claim and supported an adverse credibility finding). Saini's explanations do not compel a contrary conclusion. *See Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007). Accordingly, in the absence of credible testimony, Saini's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Saini's CAT claim is based on the same testimony found to be not credible, and he does not point to any other evidence that shows it is more likely than not that he will be tortured if returned to India, his CAT claim also fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.