

JUL 23 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KAOSAR ALAM,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-70619

Agency No. A089-885-263

MEMORANDUM*

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

Submitted July 17, 2012**

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

Kaosar Alam, a native and citizen of Bangladesh, 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 new 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.

Substantial evidence supports the agency's adverse credibility determination based on the inconsistencies between Alam's testimony and his declaration and documentary evidence regarding the timing of an attack on his business. *See id.* at 1046-47; *see also Goel v. Gonzales*, 490 F.3d 735, 739 (9th Cir. 2007) (per curiam) (discrepancies between testimony and documentary evidence are a proper basis for an adverse credibility finding). The agency reasonably rejected Alam's explanation for the inconsistencies. *See Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007). In the absence of credible testimony, Alam's asylum and withholding claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Alam's CAT claim is based on the same evidence the agency found not credible, and he points to no other evidence in the record to show it is more likely than not that he would be tortured in Bangladesh, his CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.