

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2023

FOR THE NINTH CIRCUIT

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

JOSE DANIEL RODRIGUEZ MACHADO,

No. 20-71641

Petitioner,

Agency No. A203-699-539

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted April 17, 2023**

Before: CLIFTON, R. NELSON, and BRESS, Circuit Judges.

Jose Daniel Rodriguez Machado, a native and citizen of Cuba, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his applications for asylum and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

We review for substantial evidence the agency's factual findings, applying the standards governing adverse credibility determinations under the REAL ID Act. *Shrestha v. Holder*, 590 F.3d 1034, 1039-40 (9th Cir. 2010). We deny the petition for review.

Substantial evidence supports the agency's adverse credibility determination based on the inconsistency between the photographic evidence of damage to Rodriguez Machado's house and the source of those photographs, the inconsistency between his testimony and medical records, and inconsistencies between his testimony and documentary evidence as to the detention of Rodriguez Machado's pastor. *See id.* at 1048 (adverse credibility finding reasonable under the totality of the circumstances). Rodriguez Machado's explanations do not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). Thus, in the absence of credible testimony, Rodriguez Machado's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Rodriguez Machado does not contest the BIA's denial of his due process claim or its determinations that he did not challenge the IJ's denial of his application for protection under the Convention Against Torture, that his past harm did not rise to the level of persecution, and a proposed particular social group based on resistance to recruitment was not cognizable, we do not address these

issues. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013).

PETITION FOR REVIEW DENIED.