

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 28 2023

FOR THE NINTH CIRCUIT

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

SWARN SINGH,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-1385

Agency No.
A216-629-109

MEMORANDUM*

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

Submitted August 24, 2023**
Seattle, Washington

Before: HAWKINS, GRABER, and McKEOWN, Circuit Judges.

Petitioner Swarn Singh, a native and citizen of India, timely petitions for review of the Board of Immigration Appeals' order dismissing his appeal of an immigration judge's decision that denied his applications for asylum, withholding

* 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).

of removal, and protection under the Convention Against Torture (“CAT”). We review adverse credibility findings for substantial evidence, meaning that we must uphold the agency’s determination unless the evidence compels a contrary conclusion. Iman v. Barr, 972 F.3d 1058, 1064 (9th Cir. 2020). We deny the petition.

1. Substantial evidence supports the agency’s adverse credibility determination. The record contains numerous inconsistencies about the details of the attacks that Petitioner allegedly experienced in India and the circumstances surrounding his reports to law enforcement. The agency may rely on any inconsistency in making an adverse credibility determination as long as the “totality of the circumstances,” Alam v. Garland, 11 F.4th 1133, 1135 (9th Cir. 2021) (en banc), establishes that the petitioner is not credible, see Li v. Garland, 13 F.4th 954, 961 (9th Cir. 2021) (holding that “even minor inconsistencies may have a legitimate impact on a petitioner’s credibility”). Although Petitioner argues that he explained many of the inconsistencies noted by the agency, Petitioner’s explanations do not compel a contrary conclusion. See Lata v. INS, 204 F.3d 1241, 1245 (9th Cir. 2000) (stating that a petitioner’s plausible explanation for an inconsistency does not necessarily compel a determination contrary to the agency’s adverse credibility finding).

2. Further, substantial evidence supports the decision that, without credible testimony, Petitioner failed to establish eligibility for asylum or withholding of removal. See Garcia v. Holder, 749 F.3d 785, 791 (9th Cir. 2014) (noting that the petitioner's documentary evidence was insufficient to support her claim independent of her testimony). Thus, Petitioner's asylum and withholding of removal claims fail. See Farah v. Ashcroft, 348 F.3d 1153, 1156 (9th Cir. 2003) (noting that the failure to satisfy the standard for asylum results in a failure to satisfy the standard for withholding of removal).

3. Finally, substantial evidence supports the agency's denial of protection under CAT. Petitioner failed to demonstrate that he would more likely than not be tortured with the consent or acquiescence of the Indian government. See Garcia-Milian v. Holder, 755 F.3d 1026, 1033 (9th Cir. 2014) (stating standard). Because Petitioner's claim rested on the same testimony that the agency permissibly found to be not credible, and the documentary evidence does not compel a contrary result, his claim for CAT protection fails. Farah, 348 F.3d at 1156–57.

PETITION DENIED.