

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2025

FOR THE NINTH CIRCUIT

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

RAMANDIP KAUR; KUNWARPARTAP  
SINGH,

Petitioners,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-3713

Agency Nos.

A246-769-353

A246-769-354

MEMORANDUM\*

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

Submitted July 14, 2025\*\*

Before: HAWKINS, S.R. THOMAS, and McKEOWN, Circuit Judges.

Ramandip Kaur, and her minor son Kunwarpartap Singh (“Petitioners”), natives and citizens of India, petition *pro se* for review of the Board of Immigration Appeals’ (“BIA”) affirmance of an Immigration Judge’s (“IJ”) decision denying their applications for asylum, withholding of removal, and protection under the

---

\* 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).

Convention Against Torture (“CAT”). As the parties are familiar with the facts, we do not recount them here except as they pertain to our ruling. We have jurisdiction under 8 U.S.C. § 1252(a)(1). We grant the petition.

As an initial matter, and contrary to the Government’s assertions, Kaur has not waived the issue of adverse credibility by failing to address it on appeal. *C.f. Hernandez v. Garland*, 47 F.4th 908, 916 (9th Cir. 2022). Kaur directly raised the issue in her opening brief and cited to the relevant case law.

Substantial evidence does not support the agency’s adverse credibility finding. *See Munyuh v. Garland*, 11 F.4th 750, 758 (9th Cir. 2021) (“We review adverse credibility determinations under the substantial-evidence standard.”). In adopting the IJ’s adverse credibility determination, the BIA expressly relied on seven purported inconsistencies or omissions by Kaur. However, none of these findings were “reasonable” or took “into consideration the individual circumstances of the applicant.” *Id.* (citation and quotation marks omitted). Instead, these assumptions required “cherry pick[ing] solely facts favoring an adverse credibility determination while ignoring facts that undermine that result.” *Shrestha v. Holder*, 590 F.3d 1034, 1040 (9th Cir. 2010). We address those reasons in turn.

First, the BIA found inconsistent Kaur’s “testimony and written declaration involving the nature of the harm the [Kaur] claims to have suffered during an attack on her in June 2020, including whether the attackers kicked her.” Yet, this purported

inconsistency is that Kaur testified to “scratches and swelling” as opposed to her declaration that she suffered “bruises and internal injuries.” It seems obvious that being kicked repeatedly would lead to scratches and swelling, which in turn would lead to bruises and internal injuries. There is no inconsistency here. Moreover, Kaur’s testimony to the IJ is that she did not omit being kicked from her declaration, but that “[i]n Punjabi you can say that they hit me and I have mentioned that they hit me with their foot.” The BIA did not attempt to wrestle with this explanation.

Next, the BIA found inconsistency between Kaur’s testimony “that her husband’s cousin (who checked on [her] after she was injured) lived next door to her in [Harpura], and the cousin’s declaration stating that [Kaur] moved to [Batala].” This also does not present an inconsistency. Kaur testified that she moved to Batala from Harpura in September of 2020 after her son received threats from the BJP. Prior to this, during the June 2020 attack, both she and her cousin lived in Harpura. The cousin’s affidavit says the same.

The BIA also found it significant Kaur testified “that her mother-in-law went with her to the police station after the attack on her in June 2020, but the numerous detailed written affidavits submitted on the respondent’s behalf including from her father, omitted this information.” It is not clear what bearing this fact has on whether Kaur was attacked in June of 2020, or why this omission might indicate a lack of credibility. The inclusion of additional non-material details during oral testimony

seems irrelevant to analyzing the veracity of the material details submitted through written affidavits. The BIA's logic on this point fails if the persons providing the affidavits found the detail unimportant.

The BIA found inconsistent Kaur's testimony that during the January 2021 incident "her attackers fled after 15 to 20 people gathered around the scene . . . . However, the eyewitness to this attack (Sandeep) stated in her declaration that the attackers fled when she and her friend approached to help [Kaur]." The BIA misconstrues both Kaur's testimony and Sandeep's affidavit. Kaur testified that 15 to 20 people gathered around the scene after the attack. Whether Sandeep and her friend were the first to arrive is not inconsistent with whether 15 to 20 others also gathered soon after. Sandeep's affidavit in no way implies that she and her friend were alone in helping Kaur.

The BIA next found Kaur's testimony to be inconsistent with an affidavit from "Hardeep" when "describing the nature and circumstances surrounding [Kaur's] confrontation with her opponents in December 2022." The two primary inconsistencies are whether Hardeep helped disperse the attackers and whether he spoke to Kaur at the scene about what happened. However, Hardeep's affidavit is so vague and generalized that no conflicting conclusions about the chronology of events can be fairly drawn from it.

Next, the BIA doubted that Kaur "participated in numerous party-related

events and activities between January and June 2020” when there was “strict enforcement of and punishment for violations of the restrictions and lockdowns associated with COVID-19 during that time.” Yet, the BIA fails to mention that none of these restrictions existed for the first three months of 2020. Furthermore, the existence of any restrictions says nothing about Kaur’s willingness to defy them to remain politically active. Kaur also testified that the religious institutions, which hosted some of these events, were exempt from the lockdowns. The government’s submitted country conditions confirm this.

Finally, the BIA adopted the IJ’s finding of implausibility regarding Kaur’s “medical treatment at a hospital following the attack on her in January 2021.” Specifically, the IJ doubted that a hospital which was “by appointment only,” would allow her to walk in and receive treatment immediately. However, the IJ cannot make this claim without assuming that the medical records submitted by Kaur are forged, and there is no evidence to suggest this. The IJ also attempted to discredit Kaur’s testimony that she suffered a medical emergency by citing the records’ description of her injury as “little bleeding” on her lips and nose. Yet, this only confirms Kaur’s testimony. Bleeding from the lips and nose is the expected result of being knocked off a moving scooter, slapped, punched, and thrown on the ground. Lastly, the IJ found implausible that Petitioner would be treated by a gynecologist for a bloody nose and lip and that there were no other more suitable hospitals nearby.

But again, the IJ's cannot draw this conclusion without assuming the doctor's note is fake, which is wholly unsupported by the record.

We find that the BIA's adverse credibility determination is only supported by impermissible speculation and conjecture. Thus, "any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B). Because the adverse credibility finding is not supported by substantial evidence, we grant the petition and remand to the BIA. On remand, the BIA is to deem Kaur credible and consider whether she has established eligibility for asylum and withholding of removal.

As Petitioners did not raise their CAT claim to the BIA, it was not exhausted as statutorily required under 8 U.S.C. § 1252(d)(1). *See Rizo v. Lynch*, 810 F.3d 688, 692 (9th Cir. 2016). The BIA may not consider this issue on remand.

**PETITION GRANTED AND REMANDED.**