

FILED

UNITED STATES COURT OF APPEALS

DEC 16 2010

FOR THE NINTH CIRCUIT

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

NARINDER SINGH BHULLAR,

No. 07-73079

Petitioner,

Agency No. A079-289-750

v.

ORDER

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Bhullar's petition for panel rehearing is granted.

The memorandum disposition filed on July 14, 2010, is withdrawn. A replacement memorandum disposition is being filed concurrently with this order.

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NOT FOR PUBLICATION

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v.

ERIC H. HOLDER, Jr., Attorney General,

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No. 07-73079

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MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Narinder Singh Bhullar, 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

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Husyev v. Mukasey*, 528 F.3d 1172, 1177 (9th Cir. 2008), and we deny the petition.

Substantial evidence supports the agency's adverse credibility determination based on the implausibility of Bhullar's documents being prepared originally in English, as well as the inconsistency between Bhullar's testimony that he could disguise himself as a monk because he could speak both Hindi and Punjabi, and his application stating that he spoke only Punjabi. *See Don v. Gonzales*, 476 F.3d 738, 743 (9th Cir. 2007). In the absence of credible testimony, Bhullar's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Bhullar's CAT claim is based on the same statements found to be not credible, and he does not point to any other evidence in the record that compels the conclusion that it is more likely than not that he would be tortured if returned to India, substantial evidence supports the agency's denial of CAT. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.