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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JASWINDER SINGH GILL,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70134

Agency No. A095-571-400

MEMORANDUM*

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

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Jaswinder Singh Gill, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture

* 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).

(“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the IJ’s determination that Gill’s asylum application was untimely because that finding is based on disputed facts. *See* 8 U.S.C. § 1158(a)(3); *cf. Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam) (exercising jurisdiction to consider one-year bar where facts were undisputed). Accordingly, we dismiss Gill’s asylum claim.

Substantial evidence supports the IJ’s adverse credibility determination based upon the inconsistencies in Gill’s testimony regarding his role and participation in political activities, *see Li v. Ashcroft*, 378 F.3d 959, 962-63 (9th Cir. 2004), and Gill’s failure to provide reasonable explanations for the inconsistencies, *see Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007). Accordingly, in the absence of credible testimony, Gill’s withholding of removal claim fails. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Gill’s CAT claim is based on the same evidence the agency found not credible, and he points to no other evidence showing it is more likely than not he would be tortured if he returns to India, Gill’s CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.