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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PAL SINGH,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-71059

Agency No. A078-645-568

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS, O’SCANNLAIN, and BYBEE, Circuit Judges.

Pal Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals’ (“BIA”) 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 (“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 the agency's factual findings. *Afriyie v. Holder*, 613 F.3d 924, 931 (9th Cir. 2010).

We grant the petition for review and we remand.

Substantial evidence does not support the agency's relocation finding because it is unclear if the agency placed the burden on the government to show relocation was reasonable, *see id.* at 935, and because the agency failed to analyze whether the proposed relocation within India was reasonable as guided by the considerations listed in 8 C.F.R. §§ 1208.13(b)(3) and 1208.16(b)(3), *see id.* at 936-37 (9th Cir. 2010) (remanding because "[t]he BIA failed to discuss the reasonableness factors set forth in [the regulations] or discuss how the government met its burden of showing that relocation was reasonable"). Accordingly, we remand Singh's asylum and withholding of removal claims, for further proceedings consistent with this disposition.

With respect to Singh's CAT claim, the IJ denied it on the basis of his adverse credibility determination. The BIA, without any analysis, agreed with the IJ. Given that the BIA otherwise chose to not review the IJ's adverse credibility determination, it is not clear whether the BIA denied Singh's CAT claim on the

merits or on credibility grounds. Accordingly, we also grant Singh's petition for review with respect to his CAT claim.

PETITION FOR REVIEW GRANTED; REMANDED.