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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BAHADAR RAM LAKHA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 09-73212

Agency No. A029-904-467

MEMORANDUM*

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

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Bahadar Ram Lakha, 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 relief under the Convention Against Torture (“CAT”). We have jurisdiction under

* 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).

8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, applying the new standards governing adverse credibility determinations created by the Real ID Act. *Shrestha v. Holder*, 590 F.3d 1034, 1039 (9th Cir. 2010). We deny the petition for review.

The agency concluded Lakha was not credible for a number of reasons, including the discrepancies between his testimony and declaration regarding the reports he made to the police of the attacks against him. *See id.* at 1048 (adverse credibility finding reasonable under totality of circumstances). Accordingly, in the absence of credible testimony, we deny the petition as to Lakha's asylum and withholding of removal claims. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

In addition, the record supports the agency's denial of Lakha's CAT claim because it is made on the basis of the same statements the agency found not credible, and he does not point to any other evidence in the record that shows it is more likely than not he would be tortured if returned to India. *See id.* at 1156-57. Accordingly, Lakha's CAT claim fails.

PETITION FOR REVIEW DENIED.