

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2017

FOR THE NINTH CIRCUIT

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

FELIPE SANCHEZ LUIS, AKA Felipe Sanchez Luis, AKA Felipe Sanchez, AKA Luis Felipe Sanchez,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney General,

Respondent.

No. 16-71739

Agency No. A077-096-497

MEMORANDUM*

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

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Felipe Sanchez Luis, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for withholding of removal

* 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).

and protection under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, applying the standards governing adverse credibility determinations created by the REAL ID Act. *Shrestha v. Holder*, 590 F.3d 1034, 1039-40 (9th Cir. 2010). We dismiss in part and deny in part the petition for review.

Substantial evidence supports the agency’s adverse credibility determination based on inconsistencies between Sanchez Luis’ testimony and written declaration as to the past harm he suffered in Mexico and omissions about his injuries and hospitalization. *See id.* at 1048 (adverse credibility finding reasonable under the totality of the circumstances). Sanchez Luis’ explanations do not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). Thus, in the absence of credible testimony, in this case, Sanchez Luis’ asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Sanchez Luis’ CAT claim fails because it is based on the same testimony the agency found not credible, and Sanchez Luis does not point to any other evidence in the record that compels the conclusion that it is more likely than not he would be

tortured by or with the consent or acquiescence of the government of Mexico. *Id.*
at 1156-57.

We lack jurisdiction to review Sanchez Luis' contentions regarding his membership in a particular social group because it was not raised to the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (exhaustion is mandatory and jurisdictional).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.