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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MD MUSTAFIZUR KHAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-74979

Agency No. A79-258-938

MEMORANDUM*

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

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Md Mustafizur Khan, a native and citizen of Bangladesh, petitions for review of the Board of Immigration Appeals' decision affirming the Immigration Judge's ("IJ") denial of his application for asylum, withholding of removal, and

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

relief under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *see Molina-Estrada v. INS*, 293 F.3d 1089, 1093 (9th Cir. 2002), and we deny the petition.

The record does not compel the conclusion that Khan’s untimely filing of his asylum application should be excused. *See* 8 C.F.R. § 1208.4(a). Accordingly, we deny the petition as to Khan’s asylum claim.

In regard to withholding of removal, substantial evidence supports the IJ’s finding that there has been a fundamental change in country conditions since Khan left Bangladesh, rebutting any presumption of future persecution. *See Gui v. INS*, 280 F.3d 1217, 1230 (9th Cir. 2002). Therefore, we deny the petition as to Khan’s withholding of removal claim.

Substantial evidence also supports the IJ’s denial of CAT relief. *See Singh v. Gonzales*, 439 F.3d 1100, 1113 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.