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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PARMESH CHAND,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 05-73631

Agency No. A78-072-658

MEMORANDUM *

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

Submitted June 18, 2008**

Before: REINHARDT, LEAVY, and W. FLETCHER, Circuit Judges.

Parmesh Chand, a native and citizen of Fiji, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's

* 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).

decision denying his application for withholding of removal and relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence and will uphold the agency’s decision unless the evidence compels a contrary conclusion. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992). We deny the petition for review.

The record does not compel the conclusion that the harms Chand described rose to the level of persecution, and there is insufficient evidence to establish that he faces a clear probability of persecution if he returns to Fiji. *See Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995) (denying relief of withholding of removal where the petitioner was arrested, detained for four to six hours, beaten, and private citizens threw stones at his house and attempted to steal property). Accordingly, we deny Chand’s withholding of removal claim. *See id.* at 340.

Chand failed to establish a CAT claim because he did not show that it was more likely than not that he would be tortured if he returned to Fiji. *See Arteaga v. Mukasey*, 511 F.3d 940, 948-49 (9th Cir. 2007).

Chand made no substantive arguments in his opening brief regarding the agency’s alleged violation of his due process rights, and thus waived that contention. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259–60 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.