

JAN 28 2008

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

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

DIMTAR TERZIYSKI,  
  
Petitioner,  
  
v.  
  
MICHAEL B. MUKASEY, Attorney  
General,  
  
Respondent.

No. 05-77078

Agency No. A96-190-939

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.

Dimtar Terziyski, a native and citizen of Bulgaria, petitions for review of the Board of Immigration Appeals' decision dismissing his appeal from an Immigration Judge's ("IJ") denial of his application for asylum and withholding of

---

\* 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).

removal, and request for relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the IJ’s denial of Terziyski’s claims on the basis of an adverse credibility finding. *Malhi v. INS*, 336 F.3d 989, 992 (9th Cir. 2003). We deny the petition.

Substantial evidence supports the IJ’s adverse credibility determination. The inconsistency the IJ noted between Terziyski’s testimony and his asylum application is material and goes to the heart of his claim. *See Li v. Ashcroft*, 378 F.3d 959, 962-64 (9th Cir. 2004). Terziyski omitted pivotal facts from his asylum application, which also undermines his credibility. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1254 (9th Cir. 2003). In the absence of credible testimony, Terziyski also failed to provide sufficient corroborating evidence to support his asylum claim. *See Sidhu v. INS*, 220 F.3d 1085, 1092 (9th Cir. 2000).

Because Terziyski failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Terziyski’s CAT claim also fails because it is based on the same testimony that the IJ found not credible, and Terziyski points to no other evidence that he could claim the IJ should have considered. *See id.* at 1157.

**PETITION FOR REVIEW DENIED.**