

JAN 28 2008

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

NOT FOR PUBLICATION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

CLAUDIA MIHAELA ROBU,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71827

Agency No. A79-392-412

MEMORANDUM*

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

Submitted January 14, 2008**

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

Claudia Mihaela Robu, a native and citizen of Romania, petitions for review of the Board of Immigration Appeals' ("BIA") decision adopting and affirming the

* 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).

Immigration Judge's ("IJ") denial of her applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 & n. 1 (1992), and we grant the petition for review in part, deny it in part and remand for further proceedings.

Substantial evidence does not support the IJ's conclusion that Robu's testimony was not credible because she did not reveal her true reason for leaving Romania to the immigration officer who interviewed her at the border. *See Paramasamy v. Ashcroft*, 295 F.3d 1047, 1052-53 (9th Cir. 2002). Substantial evidence does not support the IJ's conclusion that Robu's testimony was inconsistent and vague with regard to her attackers' manner of dress. *See Bandari v. INS*, 227 F.3d 1160, 1167 (9th Cir. 2000). Substantial evidence does not support the IJ's finding with regard to the discrepancy regarding the date of the unsuccessful police report. *Id.* at 1166. Finally, substantial evidence does not support the IJ's finding that her testimony contained more detail than her asylum narrative statement. *See Lopez-Reyes v. INS*, 79 F.3d 908, 911 (9th Cir. 1996). Because none of the IJ's adverse credibility findings are supported, substantial evidence does not support the BIA's conclusion that Robu's testimony, taken

cumulatively, was not credible. *See Wang v. Ashcroft*, 341 F.3d 1015, 1021-22 (9th Cir. 2003).

Accordingly, we grant the petition for review on the asylum and withholding claims and remand to the BIA for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Robu failed to establish a CAT claim because she did not show that it was more likely than not that she would be tortured if returned to Romania. *See Kamalthas v. INS*, 251 F.3d 1279, 1283-84 (9th Cir. 2001).

PETITION FOR REVIEW DENIED in part; GRANTED in part and REMANDED.