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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MALKIAT SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 04-75730

Agency No. A79-256-684

MEMORANDUM\*

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

Submitted April 16, 2008\*\*  
San Francisco, California

Before: SCHROEDER, NOONAN and CALLAHAN, Circuit Judges.

Malkiat Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order affirming an Immigration Judge's

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\* 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).

order denying his applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”).

We lack jurisdiction to review the IJ’s and BIA’s factual determinations that Singh did not meet the one-year deadline and did not qualify for an exception to the deadline for filing his asylum application. *See Sillah v. Mukasey*, \_\_\_ F.3d \_\_\_ (9th Cir. March 27, 2008). Therefore we dismiss the portion of Singh’s petition challenging the denial of asylum.

We conclude that the IJ’s and BIA’s adverse credibility determination was supported by substantial evidence because the IJ’s negative assessment of Singh’s demeanor is entitled to special deference. *See Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999). In addition, the IJ properly found that Malkiat Singh’s testimony was vague and lacked detail. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001). Because Malkiat Singh provided no other evidence to support his claim, he has failed to establish that it is more likely than not that he will be persecuted if returned to India. *See Ghaly v. INS*, 58 F.3d 1425, 1429 (9th Cir. 1995). Because Singh’s CAT claim is based on the same testimonial evidence that the IJ determined to be not credible in connection with his withholding of removal claim, the IJ and BIA also properly denied Singh’s CAT protection claim. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003).

**PETITION FOR REVIEW DISMISSED IN PART AND DENIED.**