

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 30 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

EVON HASSEB SHAMON,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-74351

Agency No. A96-233-866

MEMORANDUM*

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

Submitted April 22, 2008**

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Evon Hasseb Shamon, a native and citizen of Iraq, petitions for review of the Board of Immigration Appeals' order summarily affirming 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).

(“IJ”) decision denying his application for asylum, withholding of removal and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition for review.

The IJ found Shamon not credible, in part because although Shamon testified that he had been detained and severely beaten in Iraq, his asylum application omitted any mention of that occurrence. Because this omission is material and goes to the heart of Shamon’s claim, the IJ’s finding is supported by substantial evidence. *See id.*

Because Shamon did not meet his burden to demonstrate eligibility for asylum, he necessarily fails to meet the more stringent standard for withholding of removal. *See id.* at 964.

In the opening brief, Shamon failed to raise, and therefore has waived, any challenge to the IJ’s determination that he is ineligible for CAT relief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.