

DEC 21 2007

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

NOT FOR PUBLICATION  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

HAIDER GHULAM HAIDERY,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 06-71912

Agency No. A70-055-636

MEMORANDUM\*

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

Argued and Submitted December 11, 2007  
Pasadena, California

Before: HAWKINS, THOMAS, and McKEOWN, Circuit Judges.

Haider Ghulam Haidery is a native of Afghanistan. Haidery appeals to this court, for the second time, the Board of Immigration Appeals' ("BIA") denial of his petition for statutory withholding of removal and relief under the Convention Against Torture ("CAT").

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Whether we review the decision of the BIA or the Immigration Judge (“IJ”), substantial evidence supports the finding that Haidery was not credible. Morales v. Gonzales, 478 F.3d 972, 977 (9th Cir. 2007) (findings of fact are supported by substantial evidence unless “any reasonable adjudicator would be compelled to conclude to the contrary”) (citing 8 U.S.C. § 1252(b)(4)(B)). Both decisions pointed to significant and relevant discrepancies between the testimonies of Haidery and his ex-wife. The BIA’s prior holding does not preclude this conclusion, because the BIA rejected only the IJ’s prior reasoning. The BIA did not find Haidery credible.

Even assuming, without deciding, that the Department of Homeland Security violated its confidentiality regulations by disclosing information to Haidery’s ex-wife, no prejudice resulted from this disclosure. As such, we decline to reach whether the exclusionary rule applies under these circumstances.

Finally, substantial evidence supports the denial of Haidery’s CAT claim. Between the adverse credibility finding and the evidence of country conditions, we cannot say that any reasonable factfinder would have been compelled to find Haidery would more likely than not be tortured if returned to Afghanistan. See 8 U.S.C. § 1252(b)(4)(B); Morales 478 F.3d at 977.

DENIED.