

MAY 20 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROGELIO ORLANDO SALIC LOPEZ;  
ZANDI AIDEE HONORATO OCHOA,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-75328

Agency Nos. A79-604-977  
A79-604-978

MEMORANDUM\*

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

Submitted May 9, 2008\*\*  
Portland, Oregon

Before: TALLMAN and CLIFTON, Circuit Judges, and CARROLL, District  
Judge.\*\*\*

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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).

\*\*\* Honorable Earl H. Carroll, Senior United States District Judge,  
District of Arizona, sitting by designation.

Rogelio Orlando Salic Lopez is a native and citizen of Guatemala. He applied for asylum, withholding of removal, and relief under the Convention Against Torture.<sup>1</sup> The Immigration Judge (IJ) denied his asylum and withholding of removal claims finding that he did not provide credible testimony. The Board of Immigration Appeals (BIA) adopted and affirmed the IJ's adverse credibility determination, *see Abebe v. Gonzales*, 432 F.3d 1037, 1040 (9th Cir. 2005) (en banc), and denied Salic Lopez's claim that his due process right to a fair appeal was violated because of gaps in the hearing transcript. Salic Lopez petitions for review of the BIA's decision. We have jurisdiction under 8 U.S.C. § 1252 and we deny the petition for review.<sup>2</sup>

We review for substantial evidence adverse credibility determinations. *Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001). At the end of his hearing, only after being reminded of testimony he gave the asylum officer, Salic Lopez confirmed that he had been kidnaped by the army and forced to perform manual labor barefoot for three days. The IJ could properly view this as a deliberate attempt by Salic Lopez to enhance his persecution claim and appropriately considered it as a basis for disbelieving his testimony. *See Alvarez-Santos v. INS*,

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<sup>1</sup>Salic Lopez's wife Zandi Aidee Honorato Ochoa also applied for asylum and withholding of removal. Her claim is dependent on her husband's application.

<sup>2</sup>Salic Lopez has not challenged the IJ's denial of his claim for relief under the Convention Against Torture.

332 F.3d 1245, 1254 (9th Cir. 2003). Substantial evidence also supports the IJ's finding that Salic Lopez testified inconsistently about "when he left Guatemala and the time frame in terms of the dates he went back and why he did so." *See Don v. Gonzales*, 476 F.3d 738, 741-42 (9th Cir. 2007). We affirm the BIA's adverse credibility determination. *See Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004).

We review de novo claims of due process violations in removal proceedings. *Perez-Lastor v. INS*, 208 F.3d 773, 777 (9th Cir. 2000). In order to succeed, the alien claiming that his rights were violated must prove that he was prejudiced. *See id.* at 780. An alien is prejudiced where the violation affects the outcome of the proceedings. *See id.* There is ample testimony in the record to support the IJ's credibility determination despite several "indiscernible" passages in the transcript. Salic Lopez has not pointed to any other evidence missing from the transcript that would undermine the adverse credibility determination. He cannot prove that the outcome of his appeal would have been different and that he has suffered prejudice from any transcription error. *See Kotas v. INS*, 31 F.3d 847, 850 n.2 (9th Cir. 1994); *Acewicz v. INS*, 984 F.2d 1056, 1063 (9th Cir. 1993).

Because the adverse credibility determination is supported by substantial evidence, we need not and do not consider Salic Lopez's remaining arguments.

PETITION FOR REVIEW DENIED.