

NOT FOR PUBLICATION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

FILED

APR 01 2008

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

MAYIS ASATRYAN,

Petitioner,

v.

**MICHAEL B. MUKASEY, Attorney
General,**

Respondent.

No. 05-72516

Agency No. A75-714-418

MEMORANDUM*

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

Argued and Submitted February 8, 2008
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **O'SCANNLAIN** and **W. FLETCHER**,
Circuit Judges.

The BIA affirmed the IJ's adverse credibility finding, and the record supports this finding, as petitioner's testimony was inconsistent with his asylum application, *see* Li v. Ashcroft, 378 F.3d 959, 962 (9th Cir. 2004), and implausible,

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

see Don v. Gonzales, 476 F.3d 738, 743 (9th Cir. 2007). Substantial evidence thus supports the finding that petitioner isn't eligible for asylum, see 8 U.S.C. § 1252(b)(4)(B), so he is also necessarily ineligible for withholding of removal, see Farah v. Ashcroft, 348 F.3d 1153, 1156 (9th Cir. 2003). Petitioner's claim for relief under the Convention Against Torture (CAT) fails because a reasonable adjudicator would not be compelled to find that it's more likely than not that he would be tortured if removed. See 8 C.F.R. § 1208.16(c)(2).

Even if we were to assume that the BIA didn't affirm the IJ's adverse credibility finding, petitioner wouldn't be eligible for asylum, withholding of removal or CAT relief. A single beating incident that didn't require hospitalization and didn't cause petitioner to apply for asylum when he was previously in the United States, and vague threats don't amount to persecution, see Li v. Ashcroft, 356 F.3d 1153, 1158 (9th Cir. 2004) (en banc), or torture, see 8 C.F.R. § 1208.18(a)(1).

PETITION DENIED.