

JUN 30 2008

Soto-Olarte v. Mukasey, No. 06-71822

W. FLETCHER, Circuit Judge, Dissenting:

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

The adverse credibility finding of the Immigration Judge (IJ) is supported by substantial evidence. There are substantial discrepancies between the police report of the incident on June 19, 2003, on the one hand, and petitioner's written statement and testimony, on the other hand. Petitioner was on notice of the discrepancies between his narrative of the incident and the narrative in the police report, and of the need to explain the discrepancies. Petitioner's explanation for the discrepancies only accounted for the police report's failure to mention the Shining Path. The other material discrepancies also go to the heart of petitioner's claim. Petitioner did not explain those discrepancies. Because substantial evidence supports the IJ's finding that petitioner's testimony was not credible, I would deny the petition. *See Kohli v. Gonzales*, 473 F.3d 1061, 1071 (9th Cir. 2007); *Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004).