

DEC 30 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KHOLOOD MATI KAKTOMA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-71784

Agency No. A079-788-388

MEMORANDUM*

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

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and TROTT, Circuit Judges.

Kholood Mati Kaktoma, a native and citizen of Iraq, petitions for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying her application for asylum, withholding of

* 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. Petr. 34(a)(2).

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

Substantial evidence supports the IJ’s adverse credibility determination because Kaktoma’s voluntary return to Iraq inherently undermines her testimony that she experienced past harm or that she feared returning to her home country. *See Loho v. Mukasey*, 531 F.3d 1016, 1018-19 (9th Cir. 2008). Accordingly, Kaktoma’s asylum claim fails.

Because Kaktoma’s asylum claim fails, she necessarily cannot satisfy the more stringent standard of proof required to demonstrate eligibility for withholding of removal. *See id.* at 1019.

Substantial evidence also supports the IJ’s denial of CAT relief based on the IJ’s finding that Kaktoma did not establish a likelihood of torture by, at the instigation of, or with the consent or acquiescence of the Iraqi government. *See Arteaga v. Mukasey*, 511 F.3d 940, 948-49 (9th Cir. 2007).

PETITION FOR REVIEW DENIED.