

DEC 30 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALIREZA ESKANDARIOWRAK,</p> <p>Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>
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No. 04-72074

Agency No. A075-619-984

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.

Alireza Eskandariowrak, a native and citizen of Iran, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum,

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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).

withholding of removal, and protection under the Convention Against Torture.

We have jurisdiction under 8 U.S.C. § 1252. Reviewing for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992), we grant the petition for review and remand.

The BIA explicitly found the IJ's reasons in denying relief "insufficient to sustain an adverse credibility determination," but concluded Eskandariowrak failed to meet his burden of proof on grounds similar to those the IJ relied upon to find Eskandariowrak not credible. Therefore, the remand requested by the government for clarification is granted.

In light of our disposition, we need not address Eskandariowrak's contention that the BIA violated his due process rights by failing to address evidence that underlies his asylum claim.

**PETITION FOR REVIEW GRANTED; REMANDED.**