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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>AVETIK CHILYAN; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 04-71077

Agency Nos. A075-730-559  
A075-730-560  
A075-730-561

MEMORANDUM\*

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

Submitted January 13, 2009\*\*

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Avetik Chilyan, and his wife and son, natives and citizens of Armenia,  
petition for review of the Board of Immigration Appeals' ("BIA") order dismissing  
their appeal from an immigration judge's decision denying their application for

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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. Petr. 34(a)(2).

asylum, withholding of 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 BIA’s adverse credibility determination because the discrepancies within Chilyan’s testimony regarding whether his second beating occurred before or after his return to Armenia, go to the heart of his claim. *See Don v. Gonzales*, 476 F.3d 738, 741-42 (9th Cir. 2007). Accordingly, Chilyan’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Substantial evidence also supports the BIA’s denial of Chilyan’s CAT claim because it is based on the same statements that the BIA found to be not credible, and Chilyan does not point to any other evidence he claims the agency should have considered in making its CAT determination. *See id.* at 1157.

**PETITION FOR REVIEW DENIED.**