

APR 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SALIB ATEF MOKHTAR MOUNES,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-72135

Agency No. A095-181-596

MEMORANDUM\*

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

Submitted April 13, 2009\*\*

Before: GRABER, GOULD, and BEA, Circuit Judges.

Salib Atef Mokhtar Mounes, a native and citizen of Egypt, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his applications 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 pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the IJ's determination that, even assuming Mounes's testimony is deemed credible, Mounes did not establish past persecution on account of a statutorily enumerated ground. *See Chanco v. INS*, 82 F.3d 298, 302 (9th Cir. 1996) (holding that criminal prosecution does not amount to political persecution). Substantial evidence also supports the IJ's adverse credibility determination because there were material inconsistencies between Mounes's testimony and asylum application regarding the events surrounding his release from prison. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001); *see also Kohli v. Gonzales*, 473 F.3d 1061, 1070-71 (9th Cir. 2007). Mounes has therefore failed to show eligibility for asylum or withholding of removal. *See Zehatye*, 453 F.3d at 1190.

Mounes has not demonstrated that he is more likely than not to be tortured if returned to Egypt. *See Singh v. Gonzales*, 439 F.3d 1100, 1113 (9th Cir. 2006).

**PETITION FOR REVIEW DENIED.**