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U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GHOSTINE RACHID GHOSTINE,

Petitioner,

v.

ERIC H. HOLDER, Jr. *, Attorney General,

Respondent.

No. 05-70824

Agency No. A070-926-374

MEMORANDUM **

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

Submitted November 19, 2008 ***
Pasadena, California

Before: PREGERSON and RYMER, Circuit Judges, and KORMAN, **** District
Judge.

* Eric H. Holder, Jr., is substituted for his predecessor, Michael B. Mukasey, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

** 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).

**** The Honorable Edward R. Korman, Senior United States District Judge for the Eastern District of New York, sitting by designation.

Ghostine Rachid Ghostine, a Christian native of Lebanon, petitions for review of a Board of Immigration Appeals (“BIA”) decision denying his application for asylum, withholding of removal, and Convention Against Torture relief. We have jurisdiction to review final decisions of the BIA under 8 U.S.C. § 1252. We review the BIA’s decision for substantial evidence, and we grant the petition. *See Njuguna v. Ashcroft*, 374 F.3d 765, 769 (9th Cir.2004).

Initially, the Immigration Judge made an adverse credibility finding. The BIA reversed on appeal and accepted Ghostine’s testimony as true. Ghostine’s credible testimony established that he was regularly interrogated and beaten by Hezbollah on account of his Christian religion. The BIA’s subsequent conclusion that Ghostine provided insufficient detail to establish past persecution is not supported by substantial evidence. “Physical harm has consistently been treated as persecution.” *Chand v. INS*, 222 F.3d 1066, 1073-74 (9th Cir. 2000). This is particularly true where a claimant suffers from repeated physical harm. *See, e.g. Ahmed v. Keisler*, 504 F.3d 1183, 1194 (9th Cir. 2007) (evidence that applicant was beaten three times compelled finding of persecution).

Evidence in the record clearly establishes that the Lebanese government is unwilling or unable to control Hezbollah. Because Ghostine’s credible testimony establishes that Hezbollah was the source of persecution, the BIA’s conclusion that

Ghostine provided insufficient detail regarding the identity of his persecutors is not supported by substantial evidence.

Accordingly, we grant the petition for review and remand to the BIA to allow the government to attempt to rebut the presumption of future persecution if it so chooses.

PETITION GRANTED and REMANDED.