

JUL 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMARJIT KAUR,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-72822

Agency No. A096-489-409

MEMORANDUM*

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

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Amarjit Kaur, a native and citizen of India, petitions for review of the Board of Immigration Appeals' decision dismissing her appeal from an immigration

* 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).

judge's ("IJ") order denying her application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. We review the IJ's adverse credibility determination for substantial evidence. *Gui v. INS*, 280 F.3d 1217, 1225 (9th Cir. 2002). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the IJ's determination that Kaur failed to timely file her asylum application because the underlying facts are disputed. *Cf. Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir.2007) (per curiam). Accordingly, we dismiss the petition as to her asylum claim.

Substantial evidence supports the IJ's adverse credibility determination. Kaur testified about her political involvement in a manner inconsistent with the documentary evidence she offered to substantiate her claim. *See Goel v. Gonzales*, 490 F.3d 735, 739 (9th Cir. 2007) (inconsistencies between testimony and documentary evidence support an adverse credibility finding where inconsistencies go to the heart of the claim). Accordingly, we deny the petition as to her withholding of removal claim. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

Substantial evidence also supports the IJ's conclusion that Kaur did not establish that it is more likely than not that she will be tortured if returned to India, and we uphold the denial of relief under the CAT. *See id.*

PETITION FOR REVIEW DISMISSED in part, DENIED in part.