

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Thurgood Marshall
United States Courthouse, 40 Foley Square, in the City of
New York, on the 3rd day of March, two thousand twenty.

PRESENT:

PETER W. HALL,
SUSAN L. CARNEY,
JOSEPH F. BIANCO,
Circuit Judges.

GURPREET SINGH, AKA GOPI THAP,
Petitioner,

v.

WILLIAM P. BARR, UNITED STATES
ATTORNEY GENERAL,
Respondent.

18-2219
NAC

FOR PETITIONER: Deepti Vithal, Richmond Hill, NY.

FOR RESPONDENT: Joseph H. Hunt, Assistant Attorney
General; Mary Jane Candaux,
Assistant Director; Stephen Finn,
Trial Attorney, Office of
Immigration Litigation, United

1 States Department of Justice,
2 Washington, DC.

3 UPON DUE CONSIDERATION of this petition for review of a
4 Board of Immigration Appeals ("BIA") decision, it is hereby
5 ORDERED, ADJUDGED, AND DECREED that the petition for review
6 is DENIED.

7 Petitioner Gurpreet Singh, a native and citizen of India,
8 seeks review of a July 10, 2018 decision of the BIA affirming
9 an October 24, 2017 decision of an Immigration Judge ("IJ")
10 denying Singh's application for asylum, withholding of
11 removal, and relief under the Convention Against Torture
12 ("CAT"). *In re Gurpreet Singh*, No. A 206 895 563 (B.I.A.
13 July 10, 2018), *aff'g* No. A 206 895 563 (Immig. Ct. N.Y. City
14 Oct. 24, 2107). We assume the parties' familiarity with the
15 underlying facts and procedural history in this case.

16 We have reviewed the IJ's decision as modified and
17 supplemented by the BIA. See *Xue Hong Yang v. U.S. Dep't of*
18 *Justice*, 426 F.3d 520, 522 (2d Cir. 2005); *Yan Chen v.*
19 *Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). The standards
20 of review are well established. See 8 U.S.C. § 1252(b)(4);
21 *Hong Fei Gao v. Sessions*, 891 F.3d 67, 76 (2d Cir. 2018);
22 *Y.C. v. Holder*, 741 F.3d 324, 332 (2d Cir. 2013).

1 Credibility¹

2 The agency may, “[c]onsidering the totality of the
3 circumstances . . . base a credibility determination on the
4 demeanor, candor, or responsiveness of the applicant,” the
5 plausibility of his account, and inconsistencies in his
6 statements or between his statements and other evidence,
7 without regard to whether they go “to the heart of the
8 applicant’s claim.” 8 U.S.C. § 1158(b)(1)(B)(iii).

9 The IJ found that Singh testified credibly, except as to
10 his allegation that he was attacked by members of the
11 religious group Dera Sacha Sauda (“DSS”) because of his Sikh
12 religion in September 2014. Substantial evidence supported
13 the partial adverse credibility determination because Singh’s
14 testimony was internally inconsistent as to whether he was
15 unconscious or half-conscious following the beating, and his
16 written statement did not mention that he was rendered
17 unconscious or half-conscious when describing his injuries.
18 See 8 U.S.C. § 1158(b)(1)(B)(iii); *Ramsameachire v. Ashcroft*,
19 357 F.3d 169, 180–81 (2d Cir. 2004) (holding that “materially
20 different accounts” of past persecution “may render the

¹ Contrary to the BIA’s conclusion, Singh challenged the IJ’s partial adverse credibility determination before the BIA. See Certified Administrative Record at 10, 17 (Brief to BIA).

1 alien's testimony incredible").

2 Past Persecution

3 The agency did not err in determining that the remaining
4 credible claims did not establish harm rising to the level of
5 persecution. "Persecution is an extreme concept that does
6 not include every sort of treatment our society regards as
7 offensive." *Mei Fun Wong v. Holder*, 633 F.3d 64, 72 (2d Cir.
8 2011) (internal quotation marks omitted). A valid claim of
9 past persecution may "encompass[] a variety of forms of
10 adverse treatment, including non-life-threatening violence
11 and physical abuse," but the harm must be more severe than
12 "mere harassment." *Ivanishvili v. U.S. Dep't of Justice*, 433
13 F.3d 332, 341 (2d Cir. 2006) (internal quotation marks and
14 brackets omitted). The difference between harassment and
15 persecution is "necessarily one of degree that must be decided
16 on a case-by-case basis." *Id.* We review *de novo* whether the
17 harm rises to the level of persecution. See *Edimo-Doualla*
18 *v. Gonzales*, 464 F.3d 276, 281-82 (2d Cir. 2006).

19 The agency credited Singh's allegations that DSS
20 followers threatened him on two occasions and that a group of
21 older classmates beat and taunted him in July 2013. Singh
22 did not present evidence regarding the extent of his injuries

1 following the July 2013 beating. Taken together, these
2 events do not rise to the level of persecution. See *Jian Qiu*
3 *Liu v. Holder*, 632 F.3d 820, 822 (2d Cir. 2011) (holding
4 beating and subsequent detention did not constitute
5 persecution where beating occurred prior to detention and
6 applicant “suffered only minor bruising . . . , which required
7 no formal medical attention and had no lasting physical
8 effect”).

9 Future Persecution

10 Absent past persecution, an applicant may prevail on an
11 asylum claim by demonstrating that he subjectively fears
12 future persecution and that his fear is objectively
13 reasonable. *Ramsameachire*, 357 F.3d at 178. An applicant
14 may make this showing by establishing either a “reasonable
15 possibility he . . . would be singled out individually for
16 persecution,” or a “pattern or practice” of persecution of
17 “persons similarly situated” to him. 8 C.F.R.
18 § 1208.13(b)(2)(iii); see also *Y.C.*, 741 F.3d at 332; *In re*
19 *A-M-*, 23 I. & N. Dec. 737, 741 (B.I.A. 2005) (defining pattern
20 or practice of persecution as “systemic or pervasive”
21 persecution of a group). A fear is objectively reasonable
22 “even if there is only a slight, though discernible, chance

1 of persecution." *Diallo v. INS*, 232 F.3d 279, 284 (2d Cir.
2 2000) (citing *INS v. Cardoza-Fonseca*, 480 U.S. 421, 431
3 (1987)). But a fear is not objectively reasonable if it
4 lacks "solid support" in the record and is merely "speculative
5 at best." *Jian Xing Huang v. U.S. INS*, 421 F.3d 125, 129 (2d
6 Cir. 2005).

7 Singh did not meet his burden to establish a reasonable
8 possibility that he would be singled out for persecution. He
9 asserted that he would be persecuted because he was an active
10 member of the Sikh community and a preacher.² The agency did
11 not err in concluding that Singh failed to present reasonably
12 available corroboration of these claims. "Where the trier
13 of fact determines that the applicant should provide evidence
14 that corroborates otherwise credible testimony, such evidence
15 must be provided unless the applicant does not have the
16 evidence and cannot reasonably obtain the evidence." 8
17 U.S.C. § 1158(b)(1)(B)(ii). Contrary to Singh's argument on

² Singh argues here that he never claimed a prominent role or a role as a preacher. This argument is contrary to Singh's testimony. See, e.g., Certified Administrative Record at 143 ("I was very active preaching my Sikh religion."), 144 ("I will be very apparent in front row, and I will preach for Sikh religion I would approach people, go home and tell people that accept Sikh religion, follow Sikh religion."), 146 ("Q: Why the DSS people were just picking at you? A: Because I was very active preaching of my religion.").

1 appeal, the agency did not err in concluding that such
2 evidence was reasonably available: Singh conceded that he
3 could have provided evidence of his past activities preaching
4 at Sikh events and of his continued religious practice. Nor
5 did the agency err in requiring corroborating evidence
6 without first providing Singh additional time to present it.
7 *See Wei Sun v. Sessions*, 883 F.3d 23, 29 (2d Cir. 2018)
8 (deferring to the BIA's determination that IJ is not required
9 "to identify the specific evidence necessary to meet the
10 applicant's burden of proof and to provide an automatic
11 continuance for the applicant to obtain that evidence prior
12 to rendering a decision on the application"). Further, the
13 agency did not err in affording diminished weight to the
14 affidavits in the record because none of them corroborated
15 Singh's testimony about his religious activities, they were
16 "very similar," and some of the authors were interested
17 parties unavailable for cross-examination. *See Y.C.*, 741
18 F.3d at 332, 334 (holding that "[w]e generally defer to the
19 agency's evaluation of the weight to be afforded an
20 applicant's documentary evidence" and deferring to agency's
21 decision to afford little weight to relative's letter from
22 China because it was unsworn and from an interested witness);

1 *Mei Chai Ye v. U.S. Dep't of Justice*, 489 F.3d 517, 524 (2d
2 Cir. 2007) ("our case law on intra-proceeding similarities
3 has firmly embraced the commonsensical notion that striking
4 similarities between affidavits are an indication that the
5 statements are 'canned'"). Absent evidence corroborating his
6 testimony regarding his role in the Sikh community, Singh did
7 not meet his burden to show that he had a well-founded fear
8 of persecution on that basis. See *Jian Xing Huang*, 421 F.3d
9 at 129.

10 Singh also failed to establish a pattern or practice of
11 persecution of Sikhs in India. The agency took
12 administrative notice of State Department reports for 2016
13 and 2017, which document some violence against Sikhs, but do
14 not discuss any abuse of Sikhs by DSS members. See, e.g.,
15 India 2016 Int'l Religious Freedom Rep. at 8, available at
16 [https://www.state.gov/wp-content/uploads/2019/01/India-](https://www.state.gov/wp-content/uploads/2019/01/India-3.pdf)
17 [3.pdf](https://www.state.gov/wp-content/uploads/2019/01/India-3.pdf).³ The news articles in the record show tensions between
18 Sikhs and the DSS, as well as some police violence against
19 Sikhs engaged in anti-DSS protests. It also shows that the
20 head of the DSS was convicted on rape charges and sentenced

³ Singh does not challenge the documents of which the agency took administrative notice.

1 to 20 years' incarceration in 2017. This evidence fails to
2 establish that the DSS engages in "systemic and pervasive"
3 persecution of Sikhs sufficient to demonstrate a pattern or
4 practice of persecution in India. See 8 C.F.R.
5 § 1208.13(b)(2)(iii); *In re A-M-*, 23 I. & N. Dec. at 741. In
6 addition, contrary to Singh's argument, the agency did not
7 err in considering that his sisters have not suffered
8 significant harm in India, where they remain, in finding that
9 he did not have a well-founded fear of future persecution.
10 See *Melgar de Torres v. Reno*, 191 F.3d 307, 313 (2d Cir. 1999)
11 (finding fear of future persecution diminished where
12 applicant's mother and daughters continued to live unharmed
13 in applicant's native country).

14 In sum, Singh did not meet his burden for asylum because
15 he did not present credible evidence of past harm rising to
16 the level of persecution, he did not adequately corroborate
17 his claim that he would be singled out for future persecution
18 based on his active role in the Sikh community, and he did
19 not establish a pattern or practice of persecution of Sikhs
20 in India. See 8 U.S.C. § 1158(b)(1)(B); 8 C.F.R.
21 § 1208.13(b)(1), (2). Because Singh failed to meet his
22 burden for asylum, he "necessarily" failed to meet the higher

1 standards for withholding of removal and CAT relief. See
2 *Lecaj v. Holder*, 616 F.3d 111, 119 (2d Cir. 2010).

3 For the foregoing reasons, the petition for review is
4 DENIED. All pending motions and applications are DENIED and
5 stays VACATED.

6 FOR THE COURT:
7 Catherine O'Hagan Wolfe,
8 Clerk of Court