

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 29 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

WEI FANG,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-73428

Agency No. A96-087-539

MEMORANDUM*

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

Argued and Submitted January 16, 2009
San Francisco, California

Before: NOONAN, TASHIMA, W. FLETCHER, Circuit Judges.

Wei Fang, a native and citizen of the People's Republic of China ("PRC"), petitions for review of the Board of Immigration Appeals' ("BIA") decision dismissing the appeal from the Immigration Judge's denial of Petitioner's

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

applications for asylum, withholding of removal and relief under the Convention Against Torture (“CAT”).

This Court lacks jurisdiction to review Petitioner’s failure to file for asylum within a one-year period, as he raises no questions of law. *Ramadan v. Gonzales*, 479 F.3d 646, 648 (9th Cir. 2007) (per curiam).

This Court does have jurisdiction to consider the BIA’s adverse credibility determination regarding Petitioner’s claims for withholding of removal and relief under CAT. 8 U.S.C. § 1252. The BIA relied upon two matters: first, that Fang could not remember the name of the church he attended when he was eight; second, that Petitioner could not remember the name of the pastor of the Chinese Fellowship Church he attended for two years in Texas. These lapses of memory do not go to the heart of Petitioner’s claim; therefore, the BIA’s decision is not supported by substantial evidence. This Court further rejects as unworkable the Government’s contention that Petitioner must raise every possible ground on which an adverse credibility determination is made, to the BIA, in order to preserve the issue at the appellate level.

We remand the case to the BIA to determine whether Fang is entitled to withholding of removal and to relief under CAT.

REMANDED