

JUN 29 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JINGLU QU,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 06-72806

Agency No. A095-291-073

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Jinglu Qu, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and

* 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).

protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence findings of fact, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the IJ's adverse credibility determination, based on an omission from Qu's asylum application as to key aspects of his detention, and on an internal inconsistency as to the circumstances of his baptism. *See Kaur v. Gonzales*, 418 F.3d 1061, 1067 (9th Cir. 2005). Qu failed to adequately explain these discrepancies when given the opportunity, *id.* at 1066-67, and they go to the heart of his claim, *Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001). Accordingly, Qu's asylum claim fails.

Because Qu failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Qu's CAT claim is based on the same statements the IJ found to be not credible, and he does not point to any other evidence in the record that compels the conclusion that it is more likely than not he would be tortured if returned to China, substantial evidence supports the BIA's denial of CAT. *Id.*

PETITION FOR REVIEW DENIED.