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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LIANYING MEN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-73102

Agency No. A097-867-599

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.

Lianying Men, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her application for asylum and withholding

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\* 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).

of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence findings of fact, *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001), and we grant the petition for review and remand.

The BIA's finding that Men was not credible because she was unable to explain why the police had not designated specific dates for her to report back to the police after they released her from detention, its finding that Men was not credible because she was able to travel twice to Beijing while under government surveillance, and its demeanor finding that Men did not display adequate emotion when describing her harassment and detention are based on improper speculation and conjecture. *See Ge v. Ashcroft*, 367 F.3d 1121, 1124-25 (9th Cir. 2004) (agency may not base adverse credibility determination on impermissible speculation or conjecture); *see also Kaur v. Ashcroft*, 379 F.3d 876, 887 (9th Cir. 2002).

Consequently, we remand Men's asylum and withholding of removal claims on an open record. *See Soto-Olarte v. Holder*, 555 F.3d 1089, 1096 (9th Cir. 2009).

**PETITION FOR REVIEW GRANTED; REMANDED.**