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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>XIAO JIN LIN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 05-77249

Agency No. A096-395-159

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.

Xiao Jin Lin, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ order dismissing her appeal from an immigration judge’s (“IJ”) decision denying her 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, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition.

Substantial evidence supports the IJ’s adverse credibility determination because Lin testified inconsistently as to whether or not she practiced Falun Gong in China, and this discrepancy goes to the heart of her claim. *See id.* Accordingly, her asylum claim fails. *See id.* at 962-64.

Because Lin failed to satisfy the lower standard of proof for asylum, it necessarily follows that she failed to satisfy the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Lin’s CAT claim is based on the same evidence that the IJ found not credible, and she does not point to any other evidence showing it is more likely than not that she would be tortured in China, her CAT claim also fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.