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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>YUSHAN MA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-73619

Agency No. A096-055-146

MEMORANDUM\*

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

Submitted July 29, 2009\*\*

Before: WALLACE, LEAVY, and HAWKINS, Circuit Judges.

Yushan Ma, a native and citizen of China, petitions pro se 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

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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).

removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Rivera v. Mukasey*, 508 F.3d 1271, 1274 (9th Cir. 2007), and we deny the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination because Ma’s in-court testimony that she was detained alone in a cell is inconsistent with her asylum interview testimony that there were five other people in her cell. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001) (inconsistencies related to basis for alleged fear of persecution go to the heart of the claim). The IJ reasonably found Ma’s explanation for the inconsistency unconvincing. *See Rivera*, 508 F.3d at 1275. In the absence of credible testimony, Ma failed to demonstrate eligibility for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Ma’s CAT claim is based on the same statements found to be not credible, and she points to no evidence in the record that compels the conclusion that it is more likely than not she would be tortured if returned to China, substantial evidence supports the agency’s denial of CAT relief. *See id.* at 1156-57.

**PETITION FOR REVIEW DENIED.**