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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GANG WU,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-72237

Agency No. A097-329-722

MEMORANDUM*

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

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Gang Wu, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from 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 agency’s adverse credibility determination based on the omission from Wu’s second asylum application of the hunger strike which took place during his third detention. *See id.* Wu failed to adequately explain this discrepancy when given the opportunity and it goes to the heart of his claim. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001). Because the IJ had reason to question Wu’s credibility, the IJ reasonably took into account Wu’s failure to provide corroborating evidence in support of his claim of persecution. *See Sidhu v. INS*, 220 F.3d 1085, 1091-92 (9th Cir. 2000). Accordingly, Wu’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Finally, because Wu’s CAT claim is based on the same statements the agency found not credible, and he does not point to other evidence to show it is more likely than not he 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.