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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SUN CHAE,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 05-76444

Agency No. A079-656-647

MEMORANDUM*

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

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Sun Chae, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her application for asylum. We have jurisdiction under 8 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1252. We review for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992), and we grant the petition for review and remand.

Chae testified that during her arrest by Chinese police, she was beaten, kicked to the ground, deprived of food, water and sleep, and forced to kneel for a 24-hour period. The agency concluded that the harm Chae suffered did not rise to the level of persecution. Substantial evidence does not support the agency's conclusion. *See Guo v. Ashcroft*, 361 F.3d 1194, 1203 (9th Cir. 2004) ("totality of circumstances" compelled finding of persecution where petitioner was arrested, detained for a day and a half and physically abused).

Accordingly, we grant the petition for review and remand Chae's asylum claim to the agency for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.