

SEP 28 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JINGHONG LUAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-70064

Agency No. A098-440-485

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Jinghong Luan, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for substantial evidence adverse credibility findings, *Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003), and we deny the petition for review.

Substantial evidence supports the agency's adverse credibility determination. *See Kohli v. Gonzales*, 473 F.3d 1061, 1071 (9th Cir. 2007) (adverse credibility finding supported by substantial evidence based on discrepancies between petitioner's testimony and declaration). In the absence of credible testimony, Luan failed to establish eligibility for asylum or withholding of removal. *See Farah*, 348 F.3d at 1156.

Luan's CAT claim also fails because it is based on the same testimony the agency found not credible, and Luan does not point to any other evidence that shows it is more likely than not he would be tortured if returned to China. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.