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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HONGWEI ZHANG,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-70558

Agency No. A095-195-662

MEMORANDUM*

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

Submitted April 20, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

Hongwei Zhang, 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 relief 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, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the IJ's adverse credibility finding because Zhang testified inconsistently as to when he started practicing Falun Gong and when he decided to leave China, *see id.*, and Zhang failed to provide plausible explanations for these inconsistencies, *see Rivera v. Mukasey*, 508 F.3d 1271, 1275 (9th Cir. 2007). Substantial evidence also supports the IJ's adverse credibility determination based on the IJ's negative assessment of Zhang's demeanor. *See Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999). In the absence of credible testimony, Zhang's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Zhang's CAT claim is based on the same evidence the agency found not credible and he points to no further evidence to show it is more likely than not he would be tortured if returned to China, his CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.