

FEB 28 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| |
|--|
| <p>WEN HUEI CHENG a.k.a. En Hui Zheng,</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. 08-74593

Agency No. A095-687-729

MEMORANDUM*

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

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Wen Huei Cheng, 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 decision denying her application for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, applying the new standards governing adverse credibility determinations created by the Real ID Act. *Shrestha v. Holder*, 590 F.3d 1034, 1039 (9th Cir. 2010). We deny the petition for review.

Substantial evidence supports the agency's adverse credibility determination based on, among other findings, the inconsistency between Cheng's testimony and the two different birth certificates she presented regarding her birthplace. *See Pal v. INS*, 204 F.3d 935, 938 (9th Cir. 2000). Cheng's explanation that she is illiterate does not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). In the absence of credible testimony, Cheng's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Cheng's CAT claim is based on the testimony the agency found not credible, and she points to no other evidence showing it is more likely than not she will be tortured if returned to China, her CAT claim also fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.