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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CONGYING YU,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 10-70009

Agency No. A099-449-114

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Congying Yu, 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, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under

* 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).

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, 1039-40 (9th Cir. 2010), and we deny the petition for review.

The agency found Yu not credible for several reasons, including her inability to recite a hymn she sang during her four years attending church gatherings in China and her inability to remember her pastor’s name. Substantial evidence supports the agency’s adverse credibility determination. *See id.* at 1045-48 (adverse credibility determination was reasonable under the REAL ID Act’s “totality of circumstances”). Accordingly, in the absence of credible testimony, Yu’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Yu’s CAT claim is based on the same testimony found to be not credible, and she does not point to any evidence that shows it is more likely than not that she would be tortured if returned to China, her CAT claim also fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.