

APR 23 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YUN FEI HAO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-73855

Agency No. A097-656-424

MEMORANDUM*

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

Submitted April 17, 2012**

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Yun Fei Hao, 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 withholding of removal and relief under the Convention Against Torture ("CAT"). 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 factual findings, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the agency’s finding that Hao did not suffer past persecution. *See Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006) (persecution is an “extreme concept” that “does not include every sort of treatment our society regards as offensive”) (internal citations and quotations omitted). Substantial evidence also supports the agency’s finding that Hao does not have a clear probability of future persecution based on his practice of Tibetan Buddhism. *See Fakhry v. Mukasey*, 524 F.3d 1157, 1066 (9th Cir. 2008) (the “sum of evidence” does not compel a finding that petitioner has a clear probability of future persecution). Accordingly, Hao’s withholding of removal claim fails.

Substantial evidence also supports the agency’s denial of CAT relief because Hao failed to establish it is more likely than not that he will be tortured if returned to China. *See Wakkary v. Holder*, 558 F.3d 1049, 1067-68 (9th Cir. 2009).

PETITION FOR REVIEW DENIED.