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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JIAN HE,</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>
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No. 10-70683

Agency No. A099-712-062

MEMORANDUM\*

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

Submitted May 15, 2012\*\*

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Jian He, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum and withholding of removal.

We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence,

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\* 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).

*Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

He contends that he will be forcibly sterilized in China because he has two children. Even if He testified credibly and even if He filed a timely application for asylum, the record does not compel the conclusion that He demonstrated a well-founded fear of persecution. *See id.* at 1018 (concluding petitioner’s fear was “too speculative”); *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992) (“[t]o reverse the BIA finding we must find that the evidence not only *supports* that conclusion, but *compels* it”) (emphasis in original). Accordingly, He’s asylum claim fails.

Because He failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

**PETITION FOR REVIEW DENIED.**