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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ZENGTAI LIN, a.k.a. Bao Hua Zhang,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-70012

Agency No. A096-066-433

MEMORANDUM*

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

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges,

Zengtai Lin, 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 (“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 factual findings, *Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003), and de novo due process claims, *Hamzaspyan v. Holder*, 590 F.3d 744, 747 (9th Cir. 2009). We grant the petition for review, and we remand.

The agency relied on discrepancies between trial exhibit 11, a visa application, and Lin's testimony to find him not credible. However, in its decision, the BIA failed to address Lin's contention that the IJ improperly admitted the visa application. Accordingly, we grant the petition for review, and we remand for the BIA to address this argument in the first instance. *See INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam); *Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005).

PETITION FOR REVIEW GRANTED; REMANDED.