

OCT 22 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NA ZHANG,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 11-70718

Agency No. A095-022-614

MEMORANDUM*

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

Submitted October 15, 2013**

Before: FISHER, GOULD, and BYBEE, Circuit Judges.

Na Zhang, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ (“BIA”) 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”). Our jurisdiction is

* 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).

governed by 8 U.S.C. § 1252. We review for substantial evidence factual findings. *Gu v. Gonzales*, 454 F.3d 1014, 1018 (9th Cir. 2006). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the BIA's conclusion that Zhang failed to demonstrate that she suffered harm rising to the level of past persecution when she was interrogated three times by the police and threatened with arrest. *See id.* at 1020. Substantial evidence also supports the BIA's conclusion that Zhang failed to establish a well-founded fear of future persecution because her mother and aunt, who were arrested and detained at the time when Zhang was interrogated, have not faced further harm. *See Hakeem v. INS*, 273 F.3d 812, 817 (9th Cir. 2001) (considering the safety of the petitioner's family in assessing whether the petitioner faced future harm). Accordingly, Zhang's asylum claim fails.

Because Zhang failed to meet the lower burden of proof for asylum, it follows that she has not met the higher standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Substantial evidence also supports the BIA's denial of CAT relief because Zhang failed to establish that it is more likely than not she will be tortured by or with the acquiescence of the government of China. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008).

Finally, we lack jurisdiction to review Zhang's unexhausted ineffective assistance of counsel and due process claims. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part, DISMISSED in part.