

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 24 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

YUEYU CUI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-72414

Agency No. A088-112-408

MEMORANDUM*

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

Submitted January 21, 2014**

Before: CANBY, SILVERMAN, and PAEZ, Circuit Judges.

Yueyu Cui, a native and citizen of China, petitions pro se 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

* 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). Thus, we deny Chen's request for oral argument.

removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Ahmed v. Keisler*, 504 F.3d 1183, 1191 (9th Cir. 2007). We deny in part and grant in part the petition for review, and we remand.

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

However, substantial evidence does not supports the agency’s finding that Cui does not hold a political opinion opposing China’s policy regarding illegal aliens from North Korea. *See id.* at 1192-93; *see also Sangha v. INS*, 103 F.3d 1482, 1488 (9th Cir. 1997) (an applicant’s testimony can establish her political beliefs). Accordingly, we grant the petition for review with respect to Cui’s asylum and withholding of removal claims and we remand for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Each party shall bear its own costs for this petition for review.

**PETITION FOR REVIEW DENIED in part; GRANTED in part;
REMANDED.**

SILVERMAN, Circuit Judge, dissenting.

I respectfully dissent. I would deny the petition for review as to all of Cui's claims.