

APR 14 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>AI ZHU LIN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-72486

Agency No. A093-389-988

MEMORANDUM\*

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

Submitted April 9, 2014\*\*  
San Francisco, California

Before: SILVERMAN, W. FLETCHER, and BYBEE, Circuit Judges.

Ai Zhu Lin, a native and citizen of China, petitions for review of the agency’s denial of asylum, withholding of removal, protection under the Convention Against Torture, and cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252 and review for substantial evidence. *Shrestha v.*

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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).

*Holder*, 590 F.3d 1034, 1039, 1048 (9th Cir. 2010). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider the agency's discretionary holding that Lin's son will not face exceptional and extremely unusual hardship if Lin is removed to China. *De Mercado v. Mukasey*, 566 F.3d 810, 815-16 (9th Cir. 2009).

Lin waived any challenge to the agency's holding that her asylum application was untimely by not raising the issue in her brief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

Contrary to Lin's assertion, the adverse credibility finding is supported by the record. The agency's findings that Lin gave inconsistent, non-responsive testimony that lacked detail regarding the alleged instances of past persecution are supported by the record. The agency reasonably concluded that Lin would have mentioned her "most serious allegation of mistreatment," a forced abortion without anesthesia, in her first application. *Li v. Ashcroft*, 378 F.3d 959, 963 (9th Cir. 2004). The record does not compel a contrary conclusion that Lin was credible. Nor does any other evidence compel the conclusion that Lin more likely than not will be persecuted or tortured if returned to China. *Shrestha*, 590 F.3d at 1039, 1048-49.

PETITION FOR REVIEW DISMISSED IN PART AND DENIED IN PART.