

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 04 2014

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

YUFENG TAO,

Petitioner,

v.

ERIC H. HOLDER, JR.,

Respondent.

No. 10-71973

Agency No. A99-346-346

MEMORANDUM*

Appeal from the Board of Immigration Appeals
Argued and Submitted August 27, 2014
Pasadena, California

Before: O'SCANNLAIN and RAWLINSON, Circuit Judges, and RAKOFF,
Senior District Judge.**

Petitioner Yufeng Tao seeks review of a decision by the Board of Immigration Appeals ("Board"), denying her application for asylum, withholding of removal, and protection under the Convention Against Torture, and ordering her removed from the United States. The Court reviews the Board's factual findings

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Jed S. Rakoff, Senior District Judge for the U.S. District Court for the Southern District of New York, sitting by designation.

under the substantial evidence standard, treating the findings as “conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” 8 U.S.C. § 1252(b)(4)(B).

This Court lacks jurisdiction to review Tao’s eligibility for asylum and withholding of removal due to persecution on account of “resistance to a coercive population control program.” 8 U.S.C. § 1101(a)(42); *see Sola v. Holder*, 720 F.3d 1134, 1135 (9th Cir. 2013). That part of her claim is therefore dismissed.

As to her remaining claims, the Court finds that substantial evidence, such as discrepancies between Tao’s testimony before the Immigration Judge (“IJ”) and her proffered medical record, supports the Board’s affirmance of the IJ’s factual adverse credibility determination. The failure of the respondent to produce the author of an affidavit questioning the authenticity of the medical record is therefore moot.

Tao’s petition for review is therefore dismissed in part and denied in part.

DISMISSED IN PART AND DENIED IN PART.