

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 22 2016

FOR THE NINTH CIRCUIT

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

FAN JIN,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-72785

Agency No. A088-111-374

MEMORANDUM*

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

Submitted June 14, 2016**

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Fan Jin, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** We deny Jin's request for oral argument and unanimously conclude this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, applying the standards governing adverse credibility determinations created by the REAL ID Act, *Shrestha v. Holder*, 590 F.3d 1034, 1039-40 (9th Cir. 2010). We deny the petition for review.

We do not consider the materials Jin references in his opening brief that are not part of the administrative record. *See Fisher v. INS*, 79 F.3d 955, 963-64 (9th Cir. 1996) (en banc).

Substantial evidence supports the agency’s adverse credibility determination based on inconsistencies within Jin’s testimony and within the record evidence as to his introduction to Christianity, and on inconsistencies between Jin’s testimony and record evidence as to his places of residence. *See Shrestha*, 590 F.3d at 1048 (adverse credibility determination was reasonable under the “totality of circumstances.”). Jin’s explanations for the inconsistencies do not compel a contrary result. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). In the absence of credible testimony, Jin’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Finally, Jin’s CAT claim also fails because it is based on the same testimony the agency found not credible, and the record does not otherwise compel the

conclusion that it is more likely than not he would be tortured if returned to China.

See id. at 1156-57.

PETITION FOR REVIEW DENIED.