

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 2 2016

FOR THE NINTH CIRCUIT

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

YONGQING AI,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 15-70829

Agency No. A087-857-405

MEMORANDUM*

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

Submitted October 25, 2016**

Before: LEAVY, GRABER, and CHRISTEN, Circuit Judges.

Yongqing Ai, 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 protection under the Convention Against Torture ("CAT"). Our jurisdiction is

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

The agency found Ai not credible based on omissions from his declaration as to significant harm he testified he suffered in detention, and as to police visits to his parents' home after he fled China. Substantial evidence supports the agency's adverse credibility determination. *See Shrestha*, 590 F.3d at 1048 (adverse credibility finding reasonable under the totality of the circumstances); *Zamanov v. Holder*, 649 F.3d 969, 973 (9th Cir. 2011) ("Material alterations in the applicant's account of persecution are sufficient to support an adverse credibility finding."). Ai's explanations do not compel a contrary conclusion. *See Zamanov*, 649 F.3d at 974. In the absence of credible testimony, in this case, Ai's asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Ai's CAT claim fails because it is based on the same testimony the agency found not credible, and Ai does not point to any other evidence in the record that compels the conclusion that it is more likely than not he would be tortured by or

with the consent or acquiescence of a public official in China. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.