

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

DEC 20 2017

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

LEI WANG,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

No. 13-70003

Agency No. A201-052-331

MEMORANDUM\*

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

Submitted December 18, 2017\*\*

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Lei Wang, a native and citizen of China, petitions pro se 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

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\* 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 in part and dismiss in part the petition for review.

Substantial evidence supports the agency's adverse credibility determination based on inconsistencies between Wang's testimony and documentary evidence regarding his conversion to Christianity, conditions of his release from jail, and his contact with former church members. *See id.* at 1048 (adverse credibility finding reasonable under the totality of the circumstances). Wang's explanations do not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). Thus, in the absence of credible testimony, in this case, Wang's asylum and withholding of removal claims fail. *See Huang v. Holder*, 744 F.3d 1149, 1156 (9th Cir. 2014).

Substantial evidence supports the agency's denial of Wang's CAT claim because it was based on the same testimony found not credible, and the record does not otherwise compel the conclusion that it is more likely than not Wang would be tortured by or with the consent or acquiescence of the government if returned to China. *See id.*

We lack jurisdiction to consider Wang's argument in his opening brief as to

being nervous during his hearing because it was not raised to the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (petitioner must exhaust issues or claims in administrative proceedings below).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**