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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HAO CHEN,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General

Respondent.

No. 21-1393

Agency No.
A206-850-222

MEMORANDUM*

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

Submitted June 15, 2023**
Pasadena, California

Before: BYBEE and CHRISTEN, Circuit Judges, and VITALIANO,** District
Judge.

* 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).

*** The Honorable Eric N. Vitaliano, Senior United States District Judge
for the Eastern District of New York, sitting by designation.

Hao Chen, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review factual findings for substantial evidence, including adverse credibility determinations. *Shrestha v. Holder*, 590 F.3d 1034, 1039–40 (9th Cir. 2010). We deny the petition for review.

The BIA's decision upholding the IJ's adverse credibility determination is supported by substantial evidence. The agency based its decision on specific factors enumerated in the REAL ID Act, such as the consistency of Chen's own statements and those of Pastor Guo, as well as Chen's demeanor, candor, and responsiveness. 8 U.S.C. §§ 1158(b)(1)(B)(iii) (asylum); 1231(b)(3)(C) (withholding of removal); 1229a(c)(4)(C) (CAT).

The inconsistencies in Chen and Pastor Guo's testimony were not "utterly trivial." *Shrestha*, 590 F.3d at 1043. For example, Chen's inconsistent statements about why he came to the United States, and the years he attended church in San Diego, are probative of Chen's claim of persecution on account of his religion. Moreover, when given the opportunity to explain their inconsistent statements, both Chen and Pastor Guo were unable to do so persuasively. The sum of the

witnesses' inconsistencies shows a pattern of untruthfulness and evasiveness on which the agency reasonably based its conclusion. The record does not compel the contrary. *Lolong v. Gonzales*, 484 F.3d 1173, 1178 (9th Cir. 2007) (en banc).

Absent credible testimony, Chen's asylum claims fail because the remainder of Chen's evidence is insufficient to demonstrate either past persecution or a well-founded fear of future persecution. Because Chen does not meet the burden of proof for his asylum claim, his withholding of removal claim also fails. *See Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1230 (9th Cir. 2016) ("A petitioner who fails to satisfy the lower standard of proof for asylum necessarily fails to satisfy the more stringent standard for withholding of removal.").

Substantial evidence also supports the BIA's denial of Chen's CAT claim. Although an adverse credibility determination does not necessarily defeat a claim for CAT relief, Chen's country conditions evidence does not compel the conclusion that he is more likely than not to be tortured if removed to China. *See Shrestha*, 590 F.3d at 1048–49. While we acknowledge the human rights violations that some Christians face in China, "[t]he circumstances of [Christians] in general . . . do not vitiate the agency's specific findings as to [Chen's] situation." *Dawson v. Garland*, 998 F.3d 876, 885 (9th Cir. 2021); *see also In re S-V-*, 22 I. & N. Dec. 1306, 1313 (BIA 2000), *overruled on other grounds by Zheng v. Ashcroft*,

332 F.3d 1186 (9th Cir. 2003) (“[T]he existence of . . . mass violations of human rights in a particular country does not, as such, constitute a sufficient ground for determining that a particular person would be in danger of being subjected to torture.”).

PETITION DENIED.