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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ZHEN FENG NI,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-70499

Agency No. A088-129-178

MEMORANDUM*

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

Submitted December 4, 2013**
Pasadena, California

Before: WATFORD and HURWITZ, Circuit Judges, and SMITH, Chief District
Judge.***

1. The Board of Immigration Appeals (BIA) dismissed Zhen Feng Ni’s
appeal from the Immigration Judge’s (IJ) denial of asylum because it held that Ni

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 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 William E. Smith, Chief District Judge for the U.S.
District Court for the District of Rhode Island, sitting by designation.

has not established past persecution or a well-founded fear of future persecution on account of his resistance to China's family planning laws.

The BIA's conclusion that Ni has not established past persecution is supported by substantial evidence. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1185 (9th Cir. 2006). Ni attempts to show past persecution based on his wife's forced abortion, his mental suffering following that abortion, and a fine imposed by family planning officials. But these facts, even taken together, do not compel the conclusion that he suffered persecution. *See Jiang v. Holder*, 611 F.3d 1086, 1095–96 (9th Cir. 2010); *Zehatye*, 453 F.3d at 1186.

The BIA's conclusion that Ni has not shown a well-founded fear of future persecution is also supported by substantial evidence. Ni argues that family planning officials may forcibly sterilize him when he returns to China. But he has not shown why family planning officials would seek to sterilize him, and his wife and child have remained unharmed in China since he left.

2. Because Ni cannot establish past persecution or a well-founded fear of future persecution, he also cannot qualify for withholding of removal. *See Gonzalez-Hernandez v. Ashcroft*, 336 F.3d 995, 1001 n.5 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.