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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JIAJIE LUO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70519

Agency No. A097-369-438

MEMORANDUM*

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

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Jiajie Luo, 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 and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo

* 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).

questions of law and for substantial evidence factual findings. *Husyev v. Mukasey*, 528 F.3d 1172, 1177 (9th Cir. 2008). We deny the petition for review.

Substantial evidence supports the agency's adverse credibility finding based on the inconsistency between Luo's original and subsequent accounts of the factual basis for his claim, *see Husyev*, 528 F.3d at 1183 (omission of petitioner's political activism in his application and interview went to the heart of his claim), and based on the implausible account of the omission of his father's flight from China in his original application, *see Li v. Ashcroft*, 378 F.3d 959, 963-64 (9th Cir. 2004) (adverse credibility finding supported where petitioner omitted wife's forced sterilization from prior accounts and immigration judge addressed proffered explanation for omission). We also reject Luo's contention that the agency erred by failing to consider two corroborating documents because the IJ stated that she examined the documentary evidence, and Luo has not overcome the presumption that the agency reviewed the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006). Accordingly, in the absence of credible testimony, we deny the petition as to Luo's asylum and withholding of removal claims.

PETITION FOR REVIEW DENIED.