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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MIN FU; YIBIN JIANG,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-72470

Agency Nos. A075-768-359
A075-768-360

MEMORANDUM*

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

Submitted April 17, 2012**

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Min Fu and Yibin Jiang, natives and citizens of China, petition for review of the Board of Immigration Appeals’ (“BIA”) order dismissing their appeal from an immigration judge’s decision denying their application for withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence

* 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).

factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006).

We deny the petition for review.

Petitioners contend that the birth of their second child in the United States violated China's population-control policy and would subject Min Fu to forced sterilization upon return to China, citing the experience of one or more friends in China and a warning Min Fu received from a birth control official before leaving China in 1997. The record does not compel the conclusion that petitioners met their burden of showing a clear probability of persecution. *See id.* at 1190 (clear probability standard requires objective evidence that it is more likely than not that alien will be subject to persecution upon removal) (citation omitted); *Lin v. Holder*, 588 F.3d 981, 988 (9th Cir. 2009) (noting BIA's conclusion in *Matter of J-W-S-*, 24 I. & N. Dec. 185 (BIA 2007), that the Chinese government does not have a national policy requiring forced sterilization of a parent who returns with a second child born outside of China). Accordingly, their withholding of removal claim fails.

Finally, we deny petitioners' request for oral argument.

PETITION FOR REVIEW DENIED.