

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

NOV 18 2022

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

XIANNING DAI,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 15-72067

Agency No. A200-270-622

MEMORANDUM\*

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

Submitted November 16, 2022\*\*  
San Jose, California

Before: SCHROEDER, GRABER, and FRIEDLAND, Circuit Judges.

Xianning Dai, a citizen of China, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal

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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).

and protection under the Convention Against Torture (“CAT”). We deny the petition because the agency’s adverse credibility determination is supported by substantial evidence. *See Shrestha v. Holder*, 590 F.3d 1034, 1043 (9th Cir. 2010).

Petitioner provided inconsistent reasons for leaving China, testifying that he first decided to come to the United States after being arrested at a church gathering, but then admitting he had earlier secured a passport and applied for admission to college in the United States. He claims he was so severely beaten that his wrist was fractured, and had healed. Yet when he was given the opportunity to corroborate his testimony, he supplied a medical report that indicated there was no evidence of a healed wrist fracture. He also testified inconsistently concerning work registration requirements in China.

Petitioner was represented by counsel before the IJ and was given opportunities to explain the inconsistencies, but did not do so. The IJ adequately explained the reasons why the evidence Petitioner did provide was either not credible or unpersuasive. Substantial evidence also supports the BIA’s determination that Petitioner failed to present sufficient corroborating evidence to meet his burden of proof for asylum and withholding.

Finally, substantial evidence supports the BIA’s decision on CAT relief. It adopted the reasoning of the IJ that was premised on the adverse credibility

finding. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003) (upholding denial of asylum and CAT relief based on adverse credibility determination where CAT claim depended upon same evidence presented in support of asylum).

**PETITION DENIED.**