

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 11 2008

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

FANGKAI LIN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75264

Agency No. A96-401-235

MEMORANDUM*

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

Submitted September 8, 2008**

Before: TASHIMA, SILVERMAN and N.R. SMITH, Circuit Judges.

Fangkai Lin, a native and citizen of the People's Republic of China petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

Substantial evidence supports the BIA's conclusion that Lin's experiences in China do not rise to the level of past persecution, *see Nagoulko*, 333 F.3d at 1016-17. In addition, the record does not compel the conclusion that Lin's fear of future persecution is on account of an enumerated ground. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483-484 (1992).

Substantial evidence supports the BIA's conclusion that Lin failed to establish a clear probability of harm in China and is therefore not eligible for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Finally, substantial evidence supports the agency's denial of CAT relief because Lin has not shown that it is more likely than not that he will be tortured if returned to China. *See Singh v. Gonzales*, 439 F.3d 1100, 1113 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.