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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>YUNGAN ZHENG; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 05-76705

Agency Nos. A96-066-939  
A96-066-940

MEMORANDUM\*

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

Submitted January 14, 2008\*\*

Before: HALL, O’SCANNLAIN, and PAEZ, Circuit Judges.

Yungan Zheng and Airong Chen, natives and citizens of China, petition for review of the order of the Board of Immigration Appeals (“BIA”) that affirmed the Immigration Judge’s (“IJ”) denial of their application for asylum, withholding of

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\* 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).

removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *see Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition for review.

The record does not compel the conclusion that the untimely filing of the asylum application should be excused. *See* 8 C.F.R. § 208.4(a)(5). Accordingly, the petitioners are statutorily ineligible for asylum.

Substantial evidence supports the IJ’s and BIA’s adverse credibility determination based upon inconsistencies between Zheng’s testimony and petitioners’ asylum application regarding the nature of the injuries he sustained while in detention, and the type of medical treatment he received. *See id.* at 963. Substantial evidence also supports the IJ’s finding that Zheng gave inconsistent testimony regarding the petitioners’ claim of persecution under China’s coercive family planning policy. *See id.* These findings go to the heart of petitioners’ asylum claim. We therefore conclude that substantial evidence supports the IJ’s and BIA’s decision that the petitioners failed to establish eligibility for withholding of removal. *See id.* at 964.

Substantial evidence also supports the IJ’s and BIA’s finding that petitioners failed to credibly establish that they are eligible for relief under the CAT. *See Farah v. Ashcroft*, 348 F.3d 1153, 1157 (9th Cir. 2003).

**PETITION DENIED.**