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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>XIAOJIAN ZHANG,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 04-76001

Agency No. A95-190-448

MEMORANDUM*

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

Submitted May 20, 2008**

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Xiaojian Zhang, 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 application for asylum. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *see INS v. Elias-Zacarias*, 502 U.S. 478, 481 & n.1 (1992), and we grant the petition for review and remand.

Substantial evidence does not support the IJ's conclusion that Zhang failed to establish past persecution on account of a protected ground. We conclude that the mistreatment Zhang suffered at the hands of the Chinese police compels a finding of past persecution. *See Guo v. Ashcroft*, 361 F.3d 1194, 1203 (9th Cir. 2004). Further, the record compels the conclusion that Zhang suffered persecution on account of his imputed political opinion. *See Zhang v. Ashcroft*, 388 F.3d 713, 720-21 (9th Cir. 2004) (concluding that persecution is on account of imputed political opinion where a petitioner is accused of participating in anti-government activity).

Because we conclude that Zhang suffered past persecution, he is entitled to a rebuttable presumption of a well founded fear of future persecution. *See Garcia-Martinez v. Ashcroft*, 371 F.3d 1066, 1077-78 (9th Cir. 2004). Accordingly, we grant the petition for review and remand to the BIA for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.