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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KELE GUO,

Petitioner,

v.

MICHAEL B. MUKASEY,  
United States Attorney General,

Respondent.

No. 05-73945

Agency No. A96-069-505

MEMORANDUM \*

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

Submitted October 22, 2007\*\*

Before: B. FLETCHER, WARDLAW, and IKUTA, Circuit Judges.

Kele Guo, a native and citizen of China, petitions for review of the Board 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).

Immigration Appeals' ("BIA") order affirming the Immigration Judge's ("IJ") denial of his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). To the extent we have jurisdiction, we have jurisdiction pursuant to 8 U.S.C. § 1252. Where, as here, the BIA adopts the decision of the IJ, we review for substantial evidence the IJ's decision as if it were that of the BIA. *See Abebe v. Gonzales*, 432 F.3d 1037, 1039 (9th Cir. 2005) (en banc).

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).

As to Guo's withholding and CAT claims, substantial evidence does not support the IJ's demeanor finding. *See Arulampalam v. Ashcroft*, 353 F.3d 679, 686 (9th Cir. 2003) (stating that an IJ's demeanor-based adverse credibility finding must specifically and cogently refer to the noncredible aspects of the applicant's demeanor). Substantial evidence also does not support the IJ's findings regarding the inconsistencies about Guo's 2001 detention because the IJ failed to provide Guo with a reasonable opportunity to offer an explanation for these inconsistencies. *See Guo v. Ashcroft*, 361 F.3d 1194, 1200 (9th Cir. 2004).

We also conclude that Guo's testimony concerning his trip to Thailand was consistent with his testimony regarding his residential supervision and his fear of the Chinese Government. *See Singh v. Gonzales*, 403 F.3d 1081, 1090 (9th Cir.

2005). Finally, Guo's inconsistent testimony concerning whether or not he maintained contact with his fellow Zhong Gong practitioners is a minor inconsistency that cannot support an adverse credibility finding. *See Singh v. Ashcroft*, 301 F.3d 1109, 1113 (9th Cir. 2002). Accordingly, we grant the petition and remand to the BIA for further proceedings consistent with this disposition as to Guo's withholding of removal and CAT claims. *See INS v. Ventura*, 537 U.S. 12, 16-17 (2002) (per curiam).

**PETITION FOR REVIEW DENIED in part; GRANTED in part  
and REMANDED.**