

DEC 27 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SHIMING LI,

Petitioner,

v.

MICHAEL B. MUKASEY,** Attorney
General,

Respondent.

No. 05-71434

Agency No. A96-338-609

MEMORANDUM*

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

Submitted December 5, 2007***
Pasadena, California

Before: PREGERSON, NOONAN, and TROTT, Circuit Judges.

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

** Michael B. Mukasey is substituted for his predecessor, Peter D. Keisler, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

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

Shiming Li, a native and citizen of China, petitions for review of the Board of Immigration Appeals' summary affirmance of an Immigration Judge's ("IJ") denial of his applications for asylum and withholding of removal, and for relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an adverse credibility determination. Chebchoub v. INS, 257 F.3d 1038, 1042 (9th Cir. 2001), and we grant the petition for review and remand.

Substantial evidence does not support the IJ's adverse credibility finding. Because the IJ's adverse credibility finding was based on improper speculation, a minor inconsistency not going to the heart of the petitioner's claim, and other findings that are not supported by the record, we grant the petitioner's petition for review. See Paramasamy v. Ashcroft, 295 F.3d 1047, 1050-51 (9th Cir. 2002) (rejecting boilerplate demeanor findings); Singh v. Ashcroft, 301 F.3d 1109, 1112 (9th Cir. 2002) (holding that a minor inconsistency fails to support an adverse credibility finding); Shah v. INS, 220 F.3d 1062, 1071 (9th Cir. 2000) (holding that speculation does not support an adverse credibility finding).

Accordingly, we grant the petition and remand to determine whether, accepting petitioner's testimony as credible, he is eligible for asylum, withholding of removal, and CAT relief. See INS v. Ventura, 537 U.S. 12, 16 (2002) (per curiam).

PETITION FOR REVIEW GRANTED and REMANDED