



Sun v. Holder

2009 | Cited 0 times | Ninth Circuit | August 17, 2009

NOT FOR PUBLICATION

MEMORANDUM¹

Submitted August 11, 2009²

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Xin Yun Sun, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's ("IJ") decision denying her application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence adverse credibility findings, *Don v. Gonzales*, 476 F.3d 738, 741 (9th Cir. 2007), and we deny the petition for review.

Substantial evidence supports the agency's adverse credibility determination based upon Sun's inconsistent testimony regarding how her second pregnancy was discovered and when she was fired from her job. See *id.* at 741-43. Although Sun contends that these discrepancies were the result of mental disability, she testified before the IJ that she was healthy and submitted no documentary evidence of mental health problems. Absent credible testimony, Sun's asylum and withholding of removal claims fail. See *Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Sun's CAT claim is based on the same evidence the agency deemed not credible, and Sun points to no additional evidence the agency should have considered regarding the likelihood of torture, we deny the petition as to the CAT claim. See *id.* at 1157.

PETITION FOR REVIEW DENIED.

1. This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.
2. The panel unanimously finds this case suitable for decision without oral argument, and therefore we deny Sun's request for oral argument. See Fed. R. App. P. 34(a)(2).

