

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Thurgood Marshall
United States Courthouse, 40 Foley Square, in the City of
New York, on the 3rd day of February, two thousand twenty.

PRESENT:

ROBERT A. KATZMANN,
Chief Judge,
DENNY CHIN,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

XIANG ZHANG, AKA QIANG ZHANG,
Petitioner,

v.

WILLIAM P. BARR, UNITED STATES
ATTORNEY GENERAL,
Respondent.

**18-1750
NAC**

FOR PETITIONER: Doen Zheng, Law Office of Doen
Zheng, P.C., New York, NY.

FOR RESPONDENT: Joseph H. Hunt, Assistant Attorney
General; Holly M. Smith, Senior

1 Litigation Counsel; David Kim,
2 Trial Attorney, Office of
3 Immigration Litigation, United
4 States Department of Justice,
5 Washington, DC.

6 UPON DUE CONSIDERATION of this petition for review of a
7 Board of Immigration Appeals ("BIA") decision, it is hereby
8 ORDERED, ADJUDGED, AND DECREED that the petition for review
9 is DENIED.

10 Petitioner Xiang Zhang, a native and citizen of the
11 People's Republic of China, seeks review of a May 14, 2018,
12 decision of the BIA affirming a July 13, 2017, decision of an
13 Immigration Judge ("IJ") denying Zhang's application for
14 asylum, withholding of removal, and relief under the
15 Convention Against Torture ("CAT"). *In re Xiang Zhang*, No.
16 A 206 027 693 (B.I.A. May 14, 2018), *aff'g* No. A 206 027 693
17 (Immig. Ct. N.Y. City Jul. 13, 2017). We assume the parties'
18 familiarity with the underlying facts and procedural history
19 in this case.

20 We have reviewed both the IJ's and the BIA's decisions
21 "for the sake of completeness." *Wangchuck v. Dep't of*
22 *Homeland Sec.*, 448 F.3d 524, 528 (2d Cir. 2006). The
23 applicable standards of review are well established. 8

1 U.S.C. § 1252(b)(4)(B); *Hong Fei Gao v. Sessions*, 891 F.3d
2 67, 76 (2d Cir. 2018) (reviewing adverse credibility
3 determinations for substantial evidence). “Considering the
4 totality of the circumstances, and all relevant factors, a
5 trier of fact may base a credibility determination on . . .
6 the consistency between the applicant’s . . . written and
7 oral statements . . . , the internal consistency of each such
8 statement, [and] the consistency of such statements with
9 other evidence of record . . . without regard to whether an
10 inconsistency, inaccuracy, or falsehood goes to the heart of
11 the applicant’s claim” 8 U.S.C.
12 § 1158(b)(1)(B)(iii). “We defer . . . to an IJ’s credibility
13 determination unless, from the totality of the circumstances,
14 it is plain that no reasonable fact-finder could make such an
15 adverse credibility ruling.” *Xiu Xia Lin v. Mukasey*, 534
16 F.3d 162, 167 (2d Cir. 2008); accord *Hong Fei Gao*, 891 F.3d
17 at 76. Substantial evidence supports the agency’s
18 determination that Zhang was not credible as to his claim
19 that he was persecuted in China on account of his
20 Christianity.

1 The agency reasonably relied on several inconsistencies
2 in Zhang's statements at his credible fear interview and
3 between his interview and hearing testimony concerning the
4 dates and lengths of his alleged detentions in China following
5 arrests at an unregistered church. During his interview, he
6 initially stated that he was arrested on March 15, 2013 and
7 detained for 8 days, but near the end of his interview, he
8 stated that he was also arrested on March 22. When confronted
9 with the fact that there were not 8 days between these two
10 dates, Zhang stated that he was arrested for the second time
11 on April 2. He then testified that he was arrested on March
12 15 and 22, and detained for four days after each arrest. The
13 IJ was not required to credit Zhang's explanation that he was
14 nervous and misspoke during the interview. See *Ming Zhang*
15 *v. Holder*, 585 F.3d 715, 722 (2d Cir. 2009) (applicant's "mere
16 recitation that he was nervous or felt pressured during an .
17 . . interview will not automatically prevent" the agency from
18 relying on the interview); *Majidi v. Gonzales*, 430 F.3d 77,
19 80 (2d Cir. 2005) ("A petitioner must do more than offer a
20 plausible explanation for his inconsistent statements to
21 secure relief; he must demonstrate that a reasonable fact-

finder would be *compelled* to credit his testimony." (internal quotation marks omitted)).

The agency also reasonably relied on several material omissions from Zhang's application. He testified that officials punched and kicked him on his stomach, back, and legs during his first detention and beat him again during his second detention. He also testified that his parents paid bribes to obtain his release after both detentions. In contrast, his application does not include the days or even the year of either detention, the lengths of the detentions, any details about the first beating, or the fact that he was beaten at all during his second detention. Additionally, while the application states that his parents paid a bribe for release after his first arrest, it does not mention a bribe in relation to the second arrest. Although we have cautioned against placing excessive weight on minor omissions, these omissions were not minor as they concerned the only incidents of past harm. See *Hong Fei Gao*, 891 F.3d at 79-80; *Xiu Xia Lin*, 534 F.3d at 167 (holding that a petitioner's failure to include the length of his detention in his asylum application was a proper basis for the IJ's

1 adverse credibility determination); *Xian Tuan Ye v. Dep't of*
2 *Homeland Sec.*, 446 F.3d 289, 295 (2d Cir. 2006) (holding that
3 a "material inconsistency in an aspect of [applicant's] story
4 that served as an example of the very persecution from which
5 he sought asylum . . . afforded substantial evidence to
6 support the adverse credibility finding" (internal quotation
7 marks and citation omitted)). Given the detail provided on
8 some points in the written statement, the IJ did not err in
9 relying on the omission of other details, such as the second
10 beating and bribe or the length of his detention, as those
11 are details one "would reasonably have been expected to
12 disclose." *Hong Fei Gao*, 891 F.3d at 78-79.

13 The agency also reasonably found that Zhang's
14 corroborating evidence failed to rehabilitate his testimony.
15 "An applicant's failure to corroborate his or her testimony
16 may bear on credibility, because the absence of corroboration
17 in general makes an applicant unable to rehabilitate
18 testimony that has already been called into question." *Biao*
19 *Yang v. Gonzales*, 496 F.3d 268, 273 (2d Cir. 2007). Zhang
20 did not submit any contemporaneous evidence corroborating his
21 injuries, and the IJ did not err in giving diminished weight

1 to a letter from his mother in China. See *Y.C. v. Holder*,
2 741 F.3d 324, 332, 334 (2d Cir. 2013) (holding that “[w]e
3 generally defer to the agency’s evaluation of the weight to
4 be afforded an applicant’s documentary evidence” and
5 deferring to IJ’s decision to afford little weight to letter
6 from spouse in China). While Zhang correctly argues that the
7 IJ should not have faulted him for the fact that his detention
8 certificates were unauthenticated, see *Cao He Lin v. U.S.*
9 *Dep’t of Justice*, 428 F.3d 391, 404 (2d Cir. 2005) (“asylum
10 applicants [cannot] always reasonably be expected to have an
11 authenticated document from an alleged persecutor” (internal
12 quotation marks omitted)), this error does not warrant remand
13 because the dates on the detention certificates are
14 inconsistent with the dates Zhang gave during his interview,
15 *id.* at 402 (holding that remand is futile where “there is no
16 realistic possibility that the outcome would be different on
17 remand”).

18 Given these inconsistencies and omissions, substantial
19 evidence supports the adverse credibility determination. See
20 8 U.S.C. § 1158(b)(1)(B)(iii). The adverse credibility
21 determination is dispositive of asylum, withholding of

1 removal, and CAT relief because all three forms of relief are
2 based on the same factual predicate. See *Paul v. Gonzales*,
3 444 F.3d 148, 156-57 (2d Cir. 2006).

4 For the foregoing reasons, the petition for review is
5 DENIED. All pending motions and applications are DENIED and
6 stays VACATED.

7 FOR THE COURT:
8 Catherine O'Hagan Wolfe,
9 Clerk of Court