

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 22 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LAN YING HE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73362

Agency No. A099-041-255

MEMORANDUM*

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

Argued and Submitted October 7, 2013
Pasadena, California

Before: REINHARDT, KLEINFELD, and CHRISTEN, Circuit Judges.

Lan Ying He, a native and citizen of China, petitions for review of the Board of Immigration Appeals' (BIA) decision affirming the immigration judge's denial of her applications for asylum and withholding of removal. We have jurisdiction

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

under 8 U.S.C. § 1252, and we deny the petition.

The BIA's adverse credibility determination was based at least in part on inconsistencies between He's testimony and the declaration that accompanied her application for asylum. He contends that there were no substantial inconsistencies or omissions in He's testimony. But in her declaration He wrote that she fled to the countryside two weeks after the abortion, while she testified that she continued to work at the hospital for months. "Under the REAL ID Act, even minor inconsistencies that have a bearing on a petitioner's veracity may constitute the basis for an adverse credibility determination." *Ren v. Holder*, 648 F.3d 1079, 1089 (9th Cir. 2011). We will not disturb an adverse credibility finding unless "any reasonable adjudicator would be compelled to conclude to the contrary." *Rizk v. Holder*, 629 F.3d 1083, 1087 (9th Cir. 2011). We cannot reach that conclusion here.

By failing to show that she was eligible for asylum, He also failed to make the more stringent showing that she was eligible for withholding from removal. *See Sowe v. Mukasey*, 538 F.3d 1281, 1288 (9th Cir. 2008).

PETITION DENIED.