

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 2 2016

FOR THE NINTH CIRCUIT

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

CONGLIN ZHONG,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-73315

Agency No. A205-177-113

MEMORANDUM*

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

Submitted July 26, 2016**

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Conglin Zhong, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum and withholding of removal.

We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

the agency's factual findings, applying the standards governing adverse credibility determinations created by the REAL ID Act, *Shrestha v. Holder*, 590 F.3d 1034, 1039-40 (9th Cir. 2010), and we grant the petition for review and remand.

Substantial evidence does not support the agency's credibility determination, because the agency relied on inconsistencies not supported by the record, *see Ren v. Holder*, 648 F.3d 1079, 1087 (9th Cir. 2011), and failed to address Zhong's explanations for an inconsistency as to the number of children he had in China, *see Lai v. Holder*, 773 F.3d 966, 970 (9th Cir. 2014). Further, the "omission" the agency relied on is not a specific and cogent reason to find Zhong not credible under the totality of the circumstances. *See Lai*, 773 F.3d at 970-76. Thus, we grant Zhong's petition for review and remand his asylum and withholding of removal claims, on an open record, for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam); *Soto-Olarte v. Holder*, 555 F.3d 1089, 1095 (9th Cir. 2009).

PETITION FOR REVIEW GRANTED; REMANDED.