

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 21 2023

FOR THE NINTH CIRCUIT

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

SIYUAN WANG,

No. 20-70659

Petitioner,

Agency No. A200-268-067

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Argued and Submitted June 7, 2023
Honolulu, Hawaii

Before: BADE, BUMATAY, and SANCHEZ, Circuit Judges.

Siyuan Wang, a native and citizen of China, seeks review of the Board of Immigration Appeals' ("BIA") decision affirming the Immigration Judge's ("IJ") denial of his applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. Reviewing for substantial evidence, *Wang v. Sessions*, 861 F.3d 1003, 1007 (9th Cir.

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

2017), we deny the petition.

Substantial evidence supports the agency’s adverse credibility determination. “To overturn an IJ’s adverse credibility determination, we must find that the evidence not only *supports* a contrary conclusion, but *compels* it.” *Lianhua Jiang v. Holder*, 754 F.3d 733, 739 (9th Cir. 2014), *overruled on other grounds by Alam v. Garland*, 11 F.4th 1133, 1137 (9th Cir. 2021) (en banc) (simplified). In other words, reversal is warranted only if a petitioner “present[s] evidence so compelling that no reasonable factfinder could find that he was not credible.” *Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003) (simplified). A petitioner’s “plausible” explanation of evidence supporting an adverse credibility determination warrants reversal only if the record “compel[s] the finding that the IJ’s unwillingness to believe this explanation . . . was erroneous.” *Zamanov v. Holder*, 649 F.3d 969, 974 (9th Cir. 2011). Wang’s explanations for his inconsistent testimony do not compel such a finding here.

The BIA and IJ relied on inconsistencies in Wang’s purported graduation date. During his testimony before the IJ, Wang gave a range of dates when pressed about his graduation date, ranging from “mid-January” to “about February 4th.” His diploma listed April 29, 2011 as his graduation date, but Wang testified that he was in police custody on that date. On appeal, Wang contends that his answers were consistent; he finished his exams in January, left campus in February, and received

a diploma issued in April. But while this explanation is compatible with his testimony, it is just one possible justification for his variety of answers, which the agency is not bound to accept.

The BIA and IJ also noted inconsistencies in the alleged threats he received from Chinese officials. During his testimony, Wang said both that Chinese authorities threatened him with three years *and* five years of imprisonment. When confronted with the inconsistency, Wang testified that he could not “really remember clearly” the answer. But after prompting from his attorney, Wang testified that he had been threatened with a “range” of three to five years’ imprisonment. On appeal, Wang now asserts that there were two distinct threats—police first threatened him with three years in prison while he was in custody, and later told his family that he faced five years in prison if he were found. But this narrative conflicts with Wang’s testimony before the IJ that police threatened him once with a range of three to five years in prison.

The BIA and IJ also questioned his conflicting answers on the origin of the bail receipt introduced into evidence. Wang initially claimed that the police gave his father a bail receipt when Wang was released from custody. But in a letter, Wang’s father stated that the police would not give him a bail receipt. Wang argues that because the government does not challenge the authenticity of the receipt in the record, any question regarding how Wang received the receipt is immaterial. But

“even minor inconsistencies” may impact a petitioner’s credibility. *Shrestha v. Holder*, 590 F.3d 1034, 1044 (9th Cir. 2010). Unlike “a mere trivial error such as a misspelling,” *id.*, Wang’s inconsistent testimony regarding the bail receipt bears on his credibility.

Wang also gave inconsistent testimony about his church attendance in the United States. Wang first stated that he began attending church in Honolulu in April 2016. He later explained that he moved to Honolulu in August 2016 and began attending church there at that time. And the letter from his church that Wang submitted to the IJ states that he began attending services in April 2017. Wang now argues that he first attended church in April 2016, began attending regularly in August 2016, and became more involved in the church in April 2017. But this explanation does not comport with the church’s statement that Wang “has been attending” services “since April 2017” and “is now a regular participant” in church activities.

While Wang’s post hoc explanations for the contradictions in his testimony could be plausible, we cannot say that the record *compels* the agency to accept Wang’s justifications. *Don v. Gonzales*, 476 F.3d 738, 744 (9th Cir. 2007). Reviewing “based on the ‘totality of the circumstances,’” *Alam*, 11 F.4th at 1135 (quoting 8 U.S.C. § 1158(b)(1)(B)(iii)), and according a “healthy measure of deference” to the agency’s credibility determinations, *Shrestha*, 590 F.3d at 1041,

we hold that substantial evidence supports the agency's adverse credibility determination.

PETITION DENIED.