

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 8 2023

FOR THE NINTH CIRCUIT

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

YANLI FENG,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 21-444

Agency No.
A205-743-573

MEMORANDUM*

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

Submitted July 18, 2023**

Before: SCHROEDER, RAWLINSON, and BADE, Circuit Judges.

Yanli Feng, a native and citizen of China, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her applications for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review factual

* 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).

findings for substantial evidence, applying the standards governing adverse credibility determinations under the REAL ID Act. *Shrestha v. Holder*, 590 F.3d 1034, 1039-40 (9th Cir. 2010). We deny the petition for review.

Substantial evidence supports the adverse credibility determination based on inconsistencies in her testimony regarding how Feng confirmed her pregnancy, which family planning officials took her to the hospital, and the timing of her family planning checkups. *See id.* at 1048 (adverse credibility determination reasonable under “the totality of circumstances”); *Mukulumbutu v. Barr*, 977 F.3d 924, 927 (9th Cir. 2020) (“Substantial evidence also supports the BIA’s decision that [petitioner] did not rehabilitate his testimony with sufficient corroborating evidence.”). Feng’s explanations do not compel a contrary conclusion. *See Li v. Garland*, 13 F.4th 954, 961 (9th Cir. 2021) (IJ not compelled to accept explanations for discrepancies). Thus, in the absence of credible testimony, in this case, Feng’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

We do not address Feng’s contentions as to the merits of her asylum and withholding claims because the BIA did not deny relief on those grounds. *See Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011) (review limited to the grounds relied on by the BIA).

Substantial evidence also supports the agency’s denial of Feng’s CAT claim because it was based on the same testimony found not credible, and the record does not compel the conclusion that it is more likely than not she would

be tortured by or with the consent or acquiescence of the government if returned to China. *See Farah*, 348 F.3d at 1157.

We do not consider the materials Feng references in her opening brief that are not part of the administrative record. *See Fisher v. INS*, 79 F.3d 955, 963-64 (9th Cir. 1996) (en banc).

The temporary stay of removal remains in place until the mandate issues.

PETITION FOR REVIEW DENIED.