BIA
Christensen, IJ
A208 985 941

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 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 24th day of September, two thousand twenty-six.

PRESENT:

RAYMOND J. LOHIER, JR.,
Chief Judge,
JOSEPH F. BIANCO,
STEVEN J. MENASHI,
Circuit Judges.

SANDRA ELIZABETH JIMINEZ-FLORES,
Petitioner,

v. **24-930**
NAC

TODD BLANCHE, UNITED STATES ATTORNEY GENERAL,
Respondent.

FOR PETITIONER: Nicholas J. Mundy, Esq., Brooklyn, NY.

FOR RESPONDENT: Brett A. Shumate, Acting Assistant Attorney General; Keith I. McManus, Assistant Director; Rosanne M. Perry, Attorney, Office of Immigration Litigation, Civil Division, United States Department of Justice, Washington, D.C.

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

Petitioner Sandra Elizabeth Jiminez-Flores, a native and citizen of El Salvador, seeks review of a March 19, 2024 decision of the BIA, affirming a November 13, 2019 decision of an Immigration Judge ("IJ"), which denied her application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). *In re Sandra Elizabeth Jimenez-Flores*, No. A208 985 941 (B.I.A. Mar. 19, 2024), *aff'g* No. A208 985 941 (Immigr. Ct. N.Y. City Nov. 13, 2019). We assume the parties' familiarity with the underlying facts and procedural history.

We have reviewed the IJ's decision as modified by the BIA, and address only the adverse credibility determination. *See Xue Hong Yang v. U.S. Dep't of Just.*, 426 F.3d 520, 522 (2d Cir. 2005). We review an adverse credibility determination

"under the substantial evidence standard." *Hong Fei Gao v. Sessions*, 891 F.3d 67, 76 (2d Cir. 2018); *see also Al Saidi v. Blanche*, 185 F.4th 286, 297 (2d Cir. 2026). "[T]he administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B).

"Considering the totality of the circumstances, and all relevant factors, a trier of fact may base a credibility determination on . . . the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, [and] the consistency of such statements with other evidence of record . . . without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor." *Id*. § 1158(b)(1)(B)(iii). "We defer . . . to an IJ's credibility determination unless, from the totality of the circumstances, it is plain that no reasonable fact-finder could make such an adverse credibility ruling." *Xiu Xia Lin v. Mukasey*, 534 F.3d 162, 167 (2d Cir. 2008); *accord Hong Fei Gao*, 891 F.3d at 76.

Jiminez-Flores initially alleged that MS-13 extorted her because she sent her oldest child to the United States to avoid gang recruitment, but she testified at her

merits hearing that the only reason she feared returning to El Salvador was because MS-13 threatened her after she witnessed gang members kidnap a man who was working at her home. Substantial evidence supports the adverse credibility determination given the material omission of this final claim from the initial statement, as well as an inconsistency regarding the gang members imprisoned for the kidnapping, and a lack of reliable corroboration. *See Likai Gao v. Barr*, 968 F.3d 137, 145 n.8 (2d Cir. 2020) ("[E]ven a single inconsistency might preclude an alien from showing that an IJ was compelled to find him credible. Multiple inconsistencies would so preclude even more forcefully.").

First, the agency did not err in relying on the omission. In her application and at her hearing, Jiminez-Flores alleged that she witnessed two men she knew were MS-13 members kidnap a man named Gabriel while he was working on a construction project at her house. She testified that she told Gabriel's wife what happened and who the men were; someone reported the incident to the police; and two men were arrested but Gabriel was never found. Jiminez-Flores testified that "associates" of these men threatened to "execute [her] and rape [her] and behead [her] in a way that [her] head was not going to be found" if the men were not released from prison. Cert. Admin. R. 90. She also testified that another man

who was working with Gabriel was murdered. She stated at the hearing that there was no other reason she feared returning to El Salvador. But Jiminez-Flores had not mentioned this incident during her credible fear interview, instead stating that gang members extorted her after she sent her older son to the United States to avoid recruitment. She told the asylum officer she had not been harmed for any other reason. Given that she ultimately stated the threats stemming from Gabriel's disappearance were the sole basis for her fear, the agency reasonably concluded that her omission of that incident at the interview undermined her credibility. *See Jian Liang v. Garland*, 10 F.4th 106, 115 (2d Cir. 2021) (upholding adverse credibility determination where petitioner "omitted critical information that he would reasonably have been expected to disclose much earlier" and explaining that an omitted fact was material because it was "centrally important" to the likelihood of future persecution); *Xian Tuan Ye v. Dep't of Homeland Sec.*, 446 F.3d 289, 295 (2d Cir. 2006) (finding that a "material inconsistency in an aspect of [petitioner's] story that served as an example of the very persecution from which he sought asylum . . . afforded substantial evidence to support the adverse credibility finding" (quotation marks and citation omitted)). The agency was not required to credit her explanations that she was nervous and grieving the death of one of her sons at

the time of the initial interview. *See Majidi v. Gonzales*, 430 F.3d 77, 80 (2d Cir. 2005) ("A petitioner must do more than offer a plausible explanation for his inconsistent statements to secure relief; he must demonstrate that a reasonable fact-finder would be *compelled* to credit his testimony." (quotation marks omitted)); *Ming Zhang v. Holder*, 585 F.3d 715, 725 (2d Cir. 2009) (rejecting "the notion that a petitioner's claim that she was nervous and distracted . . . automatically undermines or negates [an interview record's] reliability"), *superseded in part by statute on other grounds*, *Singh v. Bondi*, 139 F.4th 189, 200 (2d Cir. 2025).

Second, the agency reasonably relied on an inconsistency regarding whether the men arrested for Gabriel's disappearance remained in jail. Jiminez-Flores testified that they remained incarcerated. However, her affidavit submitted with her application stated that she feared for her safety because they had been released. The inconsistency is clear on the record and "a single instance of false testimony may (if attributable to the petitioner) infect the balance of the alien's uncorroborated or unauthenticated evidence." *Siewe v. Gonzales*, 480 F.3d 160, 170 (2d Cir. 2007).

Finally, a lack of reliable corroboration hampered Jiminez-Flores's attempts to rehabilitate her credibility. "An applicant's failure to corroborate his or her

testimony may bear on credibility, because the absence of corroboration in general makes an applicant unable to rehabilitate testimony that has already been called into question." *Biao Yang v. Gonzales*, 496 F.3d 268, 273 (2d Cir. 2007). The IJ reasonably gave diminished weight to Jiminez-Flores's documentary evidence as letters from family and friends were from individuals not available for cross-examination and government records were not authenticated. *See Y.C. v. Holder*, 741 F.3d 324, 332 (2d Cir. 2013) ("We generally defer to the agency's evaluation of the weight to be afforded an applicant's documentary evidence."); *see also Likai Gao*, 968 F.3d at 149 (holding that an "IJ acted within her discretion in according . . . little weight [to letters] because the declarants . . . were interested parties and neither was available for cross-examination").

The material omission, the inconsistency, and the lack of reliable corroboration provide substantial evidence for the adverse credibility determination. *See* 8 U.S.C. § 1158(b)(1)(B)(iii); *Jian Liang*, 10 F.4th at 115; *Likai Gao*, 968 F.3d at 145 n.8; *Biao Yang*, 496 F.3d at 273. The adverse credibility determination is dispositive of asylum, withholding of removal, and CAT relief. *See Hong Fei Gao*, 891 F.3d at 76 ("Where the same factual predicate underlies a petitioner's claims for asylum, withholding of removal, and protection under the

CAT, an adverse credibility determination forecloses all three forms of relief.").

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

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