

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 13 2022

FOR THE NINTH CIRCUIT

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

FANG YANG, AKA Yang Fang,

No. 17-71351

Petitioner,

Agency No. A200-272-604

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted November 16, 2022**
Pasadena, California

Before: NGUYEN and FORREST, Circuit Judges, and FITZWATER,** District
Judge.

Fang Yang petitions for review of a decision by the Board of Immigration
Appeals (“BIA”) affirming the immigration judge’s (“IJ”) order denying asylum

* 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 Honorable Sidney A. Fitzwater, United States District Judge for
the Northern District of Texas, sitting by designation.

and withholding of removal because Yang was not credible. We have jurisdiction under 8 U.S.C. § 1252. Reviewing the agency’s adverse credibility determination for substantial evidence, *see Barseghyan v. Garland*, 39 F.4th 1138, 1142 (9th Cir. 2022), we deny the petition for review.

1. Substantial evidence supports the agency’s finding of “inconsistencies in and between [Yang’s] testimony and her written statement regarding who was looking for her in China after she departed the country.” In a supplemental written statement supporting her asylum application, Yang asserted that “staff from [the] family planning office came to [her family’s] home and looked for [her]” because they wanted her to “have a ligation operation.” Yang testified that it was “somebody from [her] work unit” who “was looking for [her]” because she was “qualified to receive unemployment compensation.”

The IJ provided Yang “with an opportunity to explain [this] inconsistency” and “reasonably reject[ed] [her] proffered explanation.” *Id.* at 1143. Yang testified that “[w]hen [she] first came to the United States [she] was still frightened and . . . had to do a lot of adjustment[,] so when [her] parents . . . told [her] that somebody was looking for [her],” she “assum[ed] that it was Family Planning.” But Yang made the supplemental written statement at least six months after arriving in the United States, and despite having the opportunity to correct it at the hearing, she affirmed under oath that it was all true.

Moreover, as the BIA observed, “[Yang’s] explanation does not account for the rapid devolution of her testimony.” She first testified that a person from work came about unemployment compensation but later testified that the person did not say why they were looking for her. And when asked why her written statement identified the person as staff from the family planning office, Yang responded, “No, I don’t think so.” The BIA reasonably interpreted this response as a “lack of awareness or denial of what she had written in her supplemental statement.”

Nor was the discrepancy between Yang’s testimony and written statement a “trivial inconsistenc[y] that under the total circumstances ha[d] no bearing on [Yang’s] veracity.” *Shrestha v. Holder*, 590 F.3d 1034, 1044 (9th Cir. 2010). Whether the family planning office was still attempting to force her to have a ligation was integral to whether she feared future persecution. *See id.* at 1039.

2. Substantial evidence supports the agency’s finding that Yang “provided the Chinese government and the American government false information.” Yang admitted that she falsely reported living at her mother-in-law’s home for her household registration so that she could send her son to a “far better” school. She repeated this false information when applying for a U.S. visa.

While “the fact that an asylum seeker has lied to immigration officers or used false passports to enter this or another country, without more, is not a proper basis for finding her not credible,” *Kaur v. Ashcroft*, 379 F.3d 876, 889 (9th Cir.

2004), here the agency relied on more than a false statement in Yang's visa application. The BIA correctly observed that her testimony and asylum application were also "inconsistent with regard to when and where she lived in China." Yang testified that she grew up at a different house number than that listed on her household registration. She testified that she moved into her mother-in-law's home in 1991, but her household registration card states that this occurred in 1995. And she testified that she moved out of her mother-in-law's home in 2005 but stated on her asylum application that she did so in 1995.

3. The BIA did not rely on the timing of Yang's passport procurement in upholding the IJ's adverse credibility finding. Therefore, we do not consider whether the BIA accurately characterized the timing as "dubious." *See Myers v. Sessions*, 904 F.3d 1101, 1113 (9th Cir. 2018).

PETITION DENIED.