

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2023

FOR THE NINTH CIRCUIT

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

YUTING HE; XIAOLING CHEN,

Petitioners,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-692

Agency Nos.
A208-737-325
A208-737-326

MEMORANDUM*

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

Submitted November 14, 2023**

Before: SILVERMAN, WARDLAW, and TALLMAN, Circuit Judges.

Yuting He and Xiaoling Chen, natives and citizens of China, petition pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's decision denying their application for asylum and denying He's application for withholding of removal. We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, 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 agency’s adverse credibility determination based on inconsistencies within He’s testimony regarding a sterilization notice, an omission in He’s statement and 2017 interviews with immigration officials regarding going into hiding, misrepresentations in He’s visa application, and the lack of corroborating evidence. *See id.* at 1048 (adverse credibility finding reasonable under the totality of the circumstances); *Zamanov v. Holder*, 649 F.3d 969, 973-74 (9th Cir. 2011) (petitioner’s omissions supported adverse credibility determination where they did not constitute “a mere lack of detail” but “went to the core of his alleged fear”). Petitioners’ explanations do not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000).

Substantial evidence also supports the agency’s finding that petitioners did not present documentary evidence that would otherwise establish their eligibility for relief. *See Garcia v. Holder*, 749 F.3d 785, 791 (9th Cir. 2014) (applicant’s documentary evidence was insufficient to independently support claim). Thus, in the absence of credible testimony, in this case, petitioners’ asylum claim and He’s withholding of removal claim fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156

(9th Cir. 2003).

We do not address petitioners' contentions as to whether they established an objectively reasonable fear of future persecution and whether they merit asylum in the exercise of discretion because the BIA did not deny relief on these grounds. *See Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011) ("In reviewing the decision of the BIA, we consider only the grounds relied upon by that agency." (citation and internal quotation marks omitted)).

We do not consider the materials petitioners reference in their 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.