

**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.

1 **At a stated term of the United States Court of Appeals for the Second**
2 **Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley**
3 **Square, in the City of New York, on the 25th day of April, two thousand**
4 **twenty-four.**

5
6 **PRESENT:**

7 **JOSÉ A. CABRANES,**
8 **MICHAEL H. PARK,**
9 **MARIA ARAÚJO KAHN,**
10 *Circuit Judges.*

11 _____
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13 **MINGJIN JIN,**
14 *Petitioner,*

15
16 **v.**

21-6552
NAC

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18 **MERRICK B. GARLAND, UNITED**
19 **STATES ATTORNEY GENERAL,**
20 *Respondent.*

21 _____
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23 **FOR PETITIONER:**

David K. S. Kim, Law Office of David K. S.
Kim, P.C., Flushing, NY.

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1 **FOR RESPONDENT:** Brian Boynton, Principal Deputy Assistant
2 Attorney General; Cindy S. Ferrier, Assistant
3 Director; Sunah Lee, Senior Trial Attorney,
4 Office of Immigration Litigation, United
5 States Department of Justice, Washington,
6 DC.

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

10 Petitioner Mingjin Jin, a native and citizen of the People’s Republic of China,
11 seeks review of a September 22, 2021, decision of the BIA affirming a November
12 16, 2018, decision of an Immigration Judge (“IJ”) denying her application for
13 asylum, withholding of removal, and relief under the Convention Against Torture
14 (“CAT”). *In re Mingjin Jin*, No. A093 446 460 (B.I.A. Sept. 22, 2021), *aff’g* No. A093
15 446 460 (Immig. Ct. N.Y. City Nov. 16, 2018). We assume the parties’ familiarity
16 with the underlying facts and procedural history.

17 We have reviewed the IJ’s decision as modified and supplemented by the
18 BIA. *See Xue Hong Yang v. U.S. Dep’t of Just.*, 426 F.3d 520, 522 (2d Cir. 2005); *Yan*
19 *Chen v. Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). We review the agency’s factual
20 findings, including an adverse credibility determination, “under the substantial
21 evidence standard,” and we review questions of law and the application of law to

1 fact de novo. *Hong Fei Gao v. Sessions*, 891 F.3d 67, 76 (2d Cir. 2018). “[T]he
2 administrative findings of fact are conclusive unless any reasonable adjudicator
3 would be compelled to conclude to the contrary.” 8 U.S.C. § 1252(b)(4)(B).

4 “Considering the totality of the circumstances, and all relevant factors, a
5 trier of fact may base a credibility determination on . . . the consistency between
6 the applicant’s or witness’s written and oral statements (whenever made and
7 whether or not under oath, and considering the circumstances under which the
8 statements were made), . . . the consistency of such statements with other evidence
9 of record . . . , and any inaccuracies or falsehoods in such statements, without
10 regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of
11 the applicant’s claim, or any other relevant factor.” 8 U.S.C. § 1158(b)(1)(B)(iii).
12 “We defer . . . to an IJ’s credibility determination unless, from the totality of the
13 circumstances, it is plain that no reasonable fact-finder could make such an
14 adverse credibility ruling.” *Xiu Xia Lin v. Mukasey*, 534 F.3d 162, 167 (2d Cir.
15 2008); *accord Hong Fei Gao*, 891 F.3d at 76.

16 Substantial evidence supports the agency’s adverse credibility
17 determination. As the agency found and Jin does not dispute, her two
18 applications were inconsistent regarding when she came to the United States,

1 whether she was married, and whether she had children. Jin initially alleged that
2 she entered the United States in 1981, was single, had no children, and feared
3 future persecution because a friend in China, who was a member of an
4 underground Christian church, was arrested, detained, beaten, and interrogated
5 by the police. Her amended application alleged that she entered the United States
6 20 years later, in 2001, that she had married in China in 1990, that she had one son
7 born in China in 1990, and that she feared future persecution as a Christian, in
8 part, because her son, who was also in the United States applying for asylum, had
9 been arrested, detained, and beaten by the police for his involvement with an
10 underground Christian church.

11 Jin argues that the inconsistencies were minor and immaterial, that the
12 agency failed to consider the totality of the circumstances, and that we should
13 remand for the agency to consider that she voluntarily admitted the false
14 statements and that her timely retraction is favorable to her credibility. But the
15 agency did not err in relying on the inconsistencies regarding her entry, her
16 marriage, or her child. “[A] single false document or a single instance of false
17 testimony may (if attributable to the petitioner) infect the balance of the alien’s
18 uncorroborated or unauthenticated evidence.” *Siewe v. Gonzales*, 480 F.3d 160,

1 170 (2d Cir. 2007). And “[e]ven where an IJ relies on discrepancies or lacunae
2 that, if taken separately, concern matters collateral or ancillary to the claim, the
3 cumulative effect may nevertheless be deemed consequential by the fact-finder.”
4 *Xiu Xia Lin*, 534 F.3d at 167 (quotation marks omitted).

5 Where, as here, an applicant admits false statements, the “IJ may, either
6 expressly or impliedly, rely on [the maxim false in one thing, false in everything]
7 to discredit evidence that does not benefit from corroboration or authentication
8 independent of the petitioner’s *own* credibility.” *Siewe*, 480 F.3d at 170. The
9 sincerity of Jin’s practice of Christianity, how she would practice if returned to
10 China, and the reliability of supporting letters from her sister and friend in China
11 confirming that she is Christian all rely on Jin’s own credibility. *Id.*; *see also Likai*
12 *Gao v. Barr*, 968 F.3d 137, 149 (2d Cir. 2020) (concluding that the “IJ acted within
13 her discretion in according . . . little weight” to letters from applicant’s wife and
14 friend “because the declarants (particularly [the applicant’s] wife) were interested
15 parties and neither was available for cross-examination”). Evidence of Jin’s
16 baptism and church membership do not resolve the credibility issues, which are
17 rooted in her willingness to lie on her asylum application and during her asylum
18 interview, and the agency found that her lack of credibility called into question

1 whether she would practice Christianity in China in a way that would call her to
2 the attention of the authorities, such as in an unregistered church.

3 Further, as Government argues, Jin’s timely retraction argument is not
4 properly before us because she failed to exhaust it before the BIA. *See Ud Din v.*
5 *Garland*, 72 F.4th 411, 419–20 & n.2 (2d Cir. 2023) (confirming that issue exhaustion
6 is mandatory and holding that “[a] claim-processing rule may be mandatory in the
7 sense that a court must enforce the rule if a party properly raises it” (quotation
8 marks omitted)). Moreover, contrary to Jin’s position, her recantation of the false
9 statements was not voluntary and timely: she confirmed the false information at
10 her interview, she waited four years to amend her application, and she did not
11 acknowledge the false statements until confronted. *See Matter of Namio*, 14 I. & N.
12 Dec. 412, 414 (B.I.A. 1973) (requiring that “recantation . . . be voluntary and
13 without delay”).

14 Because Jin’s claims for asylum, withholding of removal, and CAT relief
15 were based on the same factual predicate, the agency’s adverse credibility
16 determination is dispositive of all relief. *See Hong Fei Gao*, 891 F.3d at 76; *Siewe*,
17 480 F.3d at 170.

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

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