

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 TO 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  
2 for the Second Circuit, held at the Thurgood Marshall  
3 United States Courthouse, 40 Foley Square, in the City of  
4 New York, on the 15<sup>th</sup> day of April, two thousand nineteen.

5  
6 **PRESENT:**

7 PIERRE N. LEVAL,  
8 GUIDO CALABRESI,  
9 DEBRA ANN LIVINGSTON,  
10 *Circuit Judges.*

11  
12  
13 AI LING PAN,  
14 *Petitioner,*

15  
16 v.

17-1463  
NAC

18 WILLIAM P. BARR, UNITED STATES  
19 ATTORNEY GENERAL,  
20 *Respondent.*

21  
22  
23 **FOR PETITIONER:**

Jan Potemkin, New York, NY.

24  
25 **FOR RESPONDENT:**

Chad A. Readler, Acting Assistant  
Attorney General; Bernard A.  
Joseph, Senior Litigation Counsel;  
Kate D. Balaban, Trial Attorney,  
Office of Immigration Litigation,  
United States Department of  
Justice, Washington, DC.

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

5 Petitioner Ai Ling Pan, a native and citizen of the  
6 People's Republic of China, seeks review of an April 12, 2017,  
7 decision of the BIA affirming an August 11, 2016, decision of  
8 an Immigration Judge ("IJ") denying asylum, withholding of  
9 removal, and relief under the Convention Against Torture  
10 ("CAT"). *In re Ai Ling Pan*, No. A205 817 481 (B.I.A. Apr.  
11 12, 2017), *aff'g* No. A205 817 481 (Immig. Ct. N.Y. City Aug.  
12 11, 2016). We assume the parties' familiarity with the  
13 underlying facts and procedural history in this case.

14 Under the circumstances of this case, we have reviewed  
15 both the IJ's and the BIA's opinions "for the sake of  
16 completeness." *Wangchuck v. Dep't of Homeland Sec.*, 448 F.3d  
17 524, 528 (2d Cir. 2006). The applicable standards of review  
18 are well established. *See* 8 U.S.C. § 1252(b)(4)(B); *Xiu Xia*  
19 *Lin v. Mukasey*, 534 F.3d 162, 165-66 (2d Cir. 2008).

20 "Considering the totality of the circumstances, and all  
21 relevant factors, a trier of fact may base a credibility  
22 determination on the demeanor, candor, or responsiveness of  
23 the applicant or witness, . . . the consistency between the

1 applicant's or witness's written and oral statements . . . ,  
2 [and] the internal consistency of each such statement . . .  
3 without regard to whether an inconsistency, inaccuracy, or  
4 falsehood goes to the heart of the applicant's claim . . . ."  
5 8 U.S.C. § 1158(b)(1)(B)(iii); see also *Xiu Xia Lin*, 534 F.3d  
6 at 163-64. Substantial evidence supports the agency's  
7 determination that Pan was not credible as to her claim that  
8 family-planning officials forced her to have an abortion.

9 The agency reasonably relied in part on Pan's demeanor.  
10 See 8 U.S.C. § 1158(b)(1)(B)(iii); *Majidi v. Gonzales*, 430  
11 F.3d 77, 81 n.1 (2d Cir. 2005) (recognizing that particular  
12 weight is given to the trier of fact's assessment of  
13 demeanor). That finding is supported by the record, which  
14 reflects that Pan was unresponsive when testifying about  
15 numerous aspects of her living arrangements with her fiancé  
16 with whom she purportedly became pregnant.

17 The demeanor finding and the overall credibility  
18 determination are bolstered by record inconsistencies. See  
19 *Li Hua Lin v. U.S. Dep't of Justice*, 453 F.3d 99, 109 (2d  
20 Cir. 2006). The agency reasonably found Pan's testimony  
21 inconsistent regarding when she moved in with her fiancé and  
22 where they lived when they first lived together. See  
23 8 U.S.C. § 1158(b)(1)(B)(iii).

1           Having questioned Pan's credibility, the agency  
2 reasonably relied further on her failure to rehabilitate her  
3 testimony with reliable corroborating evidence. "An  
4 applicant's failure to corroborate . . . her testimony may  
5 bear on credibility, because the absence of corroboration in  
6 general makes an applicant unable to rehabilitate testimony  
7 that has already been called into question." *Biao Yang v.*  
8 *Gonzales*, 496 F.3d 268, 273 (2d Cir. 2007). The IJ reasonably  
9 declined to afford weight to the unsworn letter from Pan's  
10 mother because it was prepared by an interested witness who  
11 was not available for cross-examination and it was altered  
12 without explanation with respect to the date that Pan  
13 "confirmed" her relationship with her fiancé. See *Y.C. v.*  
14 *Holder*, 741 F.3d 324, 334 (2d Cir. 2013) (deferring to the  
15 agency's decision to afford little weight to a relative's  
16 letter from China because it was unsworn and from an  
17 interested witness); see also *Matter of H-L-H- & Z-Y-Z-*, 25  
18 I. & N. Dec. 209, 215 (BIA 2010) (finding unsworn letters  
19 from an alien's family insufficient to provide substantial  
20 support for the alien's claims because the letters were from  
21 interested witnesses not subject to cross-examination),  
22 *overruled on other grounds by Hui Lin Huang v. Holder*, 677

1 F.3d 130, 133-38 (2d Cir. 2012). There is no other evidence  
2 corroborating Pan's relationship, pregnancy, or abortion.

3 Given the demeanor, inconsistency, and corroboration  
4 findings, the agency's adverse credibility determination is  
5 supported by substantial evidence and is dispositive of  
6 asylum, withholding of removal, and CAT relief. See *Paul v.*  
7 *Gonzales*, 444 F.3d 148, 156-57 (2d Cir. 2006).

8 For the foregoing reasons, the petition for review is  
9 DENIED. As we have completed our review, any stay of removal  
10 that the Court previously granted in this petition is VACATED,  
11 and any pending motion for a stay of removal in this petition  
12 is DISMISSED as moot. Any pending request for oral argument  
13 in this petition is DENIED in accordance with Federal Rule of  
14 Appellate Procedure 34(a)(2), and Second Circuit Local Rule  
15 34.1(b).

16 FOR THE COURT:  
17 Catherine O'Hagan Wolfe  
18 Clerk of Court