

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.

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 9<sup>th</sup> day of September, two thousand twenty-one.

**PRESENT:**

GUIDO CALABRESI,  
DENNY CHIN,  
STEVEN J. MENASHI,  
*Circuit Judges.*

CHUAN-QIU ZOU,  
*Petitioner,*

v.

MERRICK B. GARLAND, UNITED  
STATES ATTORNEY GENERAL,  
*Respondent.*

19-2003  
NAC

**FOR PETITIONER:**

James A. Lombardi, Esq., Law  
Office of James A. Lombardi, P.C.,  
New York, NY.

**FOR RESPONDENT:**

Brian Boynton, Assistant Attorney  
General; Anthony P. Nicastro,

1 Assistant Director; S. Nicole  
2 Nardone, Trial Attorney, Office of  
3 Immigration Litigation, United  
4 States Department of Justice,  
5 Washington, DC.

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

10 Petitioner Chuan-Qiu Zou, a native and citizen of the  
11 People's Republic of China, seeks review of a June 7, 2019,  
12 decision of the BIA affirming a January 31, 2018, decision of  
13 an Immigration Judge ("IJ") denying Zou's application for  
14 asylum, withholding of removal, and relief under the  
15 Convention Against Torture ("CAT"). *In re Chuan-Qiu Zou*, No.  
16 A 201 295 445 (B.I.A. June 7, 2019), *aff'g* No. A 201 295 445  
17 (Immig. Ct. N.Y. City Jan. 31, 2018). We assume the parties'  
18 familiarity with the underlying facts and procedural history.

19 We have reviewed the IJ's decision as modified by the  
20 BIA, so we review only the corroboration finding on which the  
21 BIA relied. *See Xue Hong Yang v. U.S. Dep't of Justice*, 426  
22 F.3d 520, 522 (2d Cir. 2005); *Yan Chen v. Gonzales*, 417 F.3d  
23 268, 271-72 (2d Cir. 2005). The standards of review are well  
24 established. *See* 8 U.S.C. § 1252(b)(4)(B); *Wei Sun v.*

1 *Sessions*, 883 F.3d 23, 27 (2d Cir. 2018); *Yanqin Weng v.*  
2 *Holder*, 562 F.3d 510, 513 (2d Cir. 2009). Zou claimed that  
3 because he and his parents are Christian, Chinese authorities  
4 forced his family to move without full reimbursement,  
5 detained his parents for 10 days, and issued a summons for  
6 his arrest.

7       The agency did not err in finding that Zou failed to  
8 submit reasonably available evidence, including evidence to  
9 confirm the demolition of his family's home in China, the  
10 summons for his arrest, and his family's relocation. "The  
11 testimony of the applicant may be sufficient to sustain the  
12 applicant's burden without corroboration, but only if the  
13 applicant satisfies the trier of fact that the applicant's  
14 testimony is credible, is persuasive, and refers to specific  
15 facts sufficient to demonstrate that the applicant is a  
16 refugee." 8 U.S.C. § 1158(b)(1)(B)(ii). Even absent an  
17 adverse credibility determination, a lack of corroboration  
18 may be an independent basis for the denial of relief if the  
19 agency identifies reasonably available evidence that should  
20 have been presented. See *Wei Sun*, 883 F.3d at 28-31; *Chuilu*  
21 *Liu v. Holder*, 575 F.3d 193, 196-97 (2d Cir. 2009). "In

1 determining whether the applicant has met his burden, the  
2 trier of fact may weigh the credible testimony along with  
3 other evidence of record. Where the trier of fact determines  
4 that the applicant should provide evidence that  
5 corroborates otherwise credible testimony, such evidence must  
6 be provided unless the applicant does not have the evidence  
7 and cannot reasonably obtain the evidence." 8 U.S.C. §  
8 1158(b)(1)(B)(ii). "No court shall reverse a determination  
9 made by a trier of fact with respect to the availability  
10 of corroborating evidence . . . unless the court finds . . .  
11 that a reasonable trier of fact is compelled to conclude that  
12 such corroborating evidence is unavailable." *Id.*  
13 § 1252(b)(4).

14 The record supports the agency's reliance on a lack of  
15 corroboration. The IJ identified the missing evidence,  
16 including the summons for Zou's arrest, photographs of the  
17 demolished family home, and proof of a new address or  
18 registration of the family's new home. *See Chuilu Liu*, 575  
19 F.3d at 198-99. Zou's testimony regarding the summons was  
20 unclear and inconsistent, his explanations for the missing  
21 evidence at times contradicted other evidence in the record,

1 and none of his explanation compelled the conclusion that the  
2 missing evidence was unavailable. See 8 U.S.C. § 1252(b)(4);  
3 *Majidi v. Gonzales*, 430 F.3d 77, 80-81 (2d Cir. 2005). The  
4 IJ did not err in declining to credit the remainder of Zou's  
5 evidence. See *Y.C. v. Holder*, 741 F.3d 324, 334 (2d Cir.  
6 2013) ("We defer to the agency's determination of the weight  
7 afforded to an alien's documentary evidence."). The letters  
8 from friends and family were entitled to diminished  
9 evidentiary weight because they were authored by interested  
10 witnesses who were not available for cross-examination. *Id.*  
11 (deferring to agency's determination that letter from alien's  
12 spouse in China was entitled to "very little weight" "because  
13 it was unsworn and . . . submitted by an interested  
14 witness"); *Matter of H-L-H- & Z-Y-Z-*, 25 I. & N. Dec. 209,  
15 215 (B.I.A. 2010) (finding that letters from alien's friends  
16 and family were insufficient support for alien's claims  
17 because they were from interested witnesses not subject to  
18 cross-examination), *overruled on other grounds by Hui Lin*  
19 *Huang v. Holder*, 677 F.3d 130, 133-38 (2d Cir. 2012).

20 Given the lack of reliable corroboration, the agency did  
21 not err in finding that Zou failed to meet his burden of

1 proof. See 8 U.S.C. § 1158(b)(1)(B)(ii). That finding is  
2 dispositive of asylum, withholding of removal, and CAT relief  
3 because all three claims were based on the same factual  
4 predicate. *Lecaj v. Holder*, 616 F.3d 111, 119-20 (2d Cir.  
5 2010).

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

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