

DEC 10 2008

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MIN CHAI LIN,

Petitioner,

v.

MICHAEL B. MUKASEY,
Attorney General,

Respondent.

No. 04-75860

Agency No. A070-088-098

MEMORANDUM*

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

Submitted November 19, 2008**
Pasadena, California

Before: GRABER and CLIFTON, Circuit Judges, and SHEA,*** District Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Edward F. Shea, United States District Judge for the Eastern District of Washington, sitting by designation.

Min Chai Lin petitions for review of the Board of Immigration Appeals' order affirming, without opinion, the decision of an immigration judge ordering Lin excluded and deported from the United States. Lin petitions for asylum and a reversal of the adverse credibility determination that underlay the denial of relief. We deny the petition for review.

We review the IJ's decision as we would review a decision of the BIA, because the BIA affirmed the IJ's decision without opinion. *See Lanza v. Ashcroft*, 389 F.3d 917, 925 (9th Cir. 2004).

Lin contends that the inconsistencies the IJ identified in Lin's testimony either were immaterial or were satisfactorily explained by Lin, and he argues that the record does not support the IJ's finding that Lin's testimony was implausible. We find that at least one of the grounds on which the IJ relied in making the adverse credibility determination is "supported by substantial evidence and goes to the heart of [Lin's] claim of persecution." *Wang v. INS*, 352 F.3d 1250, 1259 (9th Cir. 2003). For instance, substantial evidence supports the IJ's finding that Lin testified inconsistently regarding the size of the fine that the Chinese government imposed on Lin and his wife for her second pregnancy, giving several different and widely varying figures. Lin acknowledges the discrepancy and his failure to explain it, but asserts that the fine is not central to his claim. We disagree.

Because this inconsistency goes to the heart of Lin's claim that he and his wife were persecuted for their opposition to China's family planning policy, it is sufficient to support the IJ's adverse credibility finding. Accordingly, we deny Lin's petition for review.

PETITION FOR REVIEW DENIED.