

Federal Court



Cour fédérale

**Date: 20150814**

**Docket: IMM-8500-14**

**Citation: 2015 FC 969**

**Ottawa, Ontario, August 14, 2015**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**HONG CHEN  
BAIYE CAO**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The applicants are a mother, Hong Chen, and her son, Baiye Cao. They are citizens of China. Ms. Chen claimed to be a practitioner of Falun Gong and wanted by the Public Security Bureau [PSB] in China. She was found by the Refugee Protection Division [RPD] not to be credible. It concluded that she “was not a Falun Gong practitioner in China.”

[2] Hong Chen further asserted that she practiced Falun Gong in Canada. The RPD found that while she was knowledgeable of Falun Gong, “she has only gotten involved in Falun Gong in Canada to advance a fraudulent refugee claim.”

[3] In my view, there are two issues to be addressed: First, whether the RPD’s decision that Hong Chen was not a Falun Gong practitioner in China was reasonable and second, whether the RPD erred in failing to properly assess her *sur place* claim.

[4] I find nothing unreasonable about the RPD’s view that Hong Chen was not a Falun Gong practitioner in China. That assessment was made based on her testimony; conflicts and inconsistencies in her evidence; and discrepancies between her testimony and known facts. In particular, it was noted that she did not right away state in her oral testimony that her Falun Gong instructor was sentenced to four years imprisonment, even though it was in her amended PIF narrative. The RPD also noted that the prison sentence was not mentioned in the original PIF, even though she alleged she knew about the sentence before submitting it. Moreover, there was no corroborative evidence that the PSB is looking for her, and her description of the conduct of the PSB differed from and was inconsistent with its reputation for being a “ruthless and fearsome” police force. Lastly, it noted a lack of evidence about the alleged arrests of her fellow practitioners.

[5] As to the *sur place* claim, the applicants submit that the facts here are similar to those in *Chen v Canada (Minister of Citizenship and Immigration)*, 2014 FC 749 [*Chen*]. In *Chen*, the Court found the RPD’s analysis to be illogical. The RPD in *Chen* made the following analysis:

(i) the applicant was not a Falun Gong practitioner in China; (ii) the applicant became a Falun Gong practitioner in Canada only to bolster her refugee claim; (iii) because the applicant was not a Falun Gong practitioner in China, the PSB are not seeking to arrest her; (iv) because the claimant is not a genuine Falun Gong practitioner in Canada, the claimant can safely return to China.

[6] The crux of the court's finding in *Chen* is that "[t]here is no real assessment by the Board of whether the Applicant has become a genuine Falun Gong practitioner in Canada. The bald assertion that she isn't genuine because she wasn't a genuine practitioner in China does not make logical sense and simply ignores the guiding jurisprudence of this Court on point."

[7] Here, as in *Jiang v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1067 [*Jiang*], the RPD does examine the evidence advanced to support her allegation that even if she was not an adherent of Falun Gong in China, she has become one in Canada, and the RPD rejects that submission after examining the evidence offered to support it; namely, her testimony, a few pictures, and unsworn statements of a few practitioners.

[8] As was observed in *Jiang*, the RPD is entitled to assess the genuineness of a claimant's assertion that she has become an adherent in Canada "in light of the credibility concerns relating to the original authenticity of a claim." Where there is an adverse credibility finding, the evidence of a claimant is entitled to little weight. Here the RPD noted that there was no evidence that Chen Hong had taken a leadership role in Falun Gong in Canada, no sworn evidence other than her own, and nothing to suggest that she had become involved in Falun Gong through

personal belief rather than as a means to support her refugee claim. I am unable to find that its decision was unreasonable given the evidence before it and its finding that she had advanced a fraudulent claim based on being a practitioner of Falun Gong in China.

[9] For these reasons, the application must be dismissed. No question for certification was proposed and there is none on these facts.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application is dismissed and no question is certified.

"Russel W. Zinn"

---

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8500-14

**STYLE OF CAUSE:** HONG CHEN ET AL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** AUGUST 10, 2015

**JUDGMENT AND REASONS:** ZINN J.

**DATED:** AUGUST 14 , 2015

**APPEARANCES:**

Nkunda I. Kabateraine FOR THE APPLICANTS

Margherita Braccio FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Nkunda I. Kabateraine FOR THE APPLICANTS  
Barrister & Solicitor  
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario