

Federal Court



Cour fédérale

Date: 20160627

Docket: IMM-3135-15

Citation: 2016 FC 712

Ottawa, Ontario, June 27, 2016

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

GAOLU LIN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Gao Lu Lin claimed refugee protection in Canada based on his fear of persecution in China as a practitioner of Falun Gong. He claims that the Chinese Public Security Bureau (PSB) raided the place where he and his fellow practitioners met. He then fled China with the assistance of a smuggler.

[2] A panel of the Immigration and Refugee Board dismissed Mr Lin's claim due to a lack of credible evidence. However, he successfully appealed that ruling to the Refugee Appeal Division (RAD), which ordered a new hearing before the Board. Once again, the Board found that Mr Lin's allegations were unsupported by credible evidence. The RAD upheld that decision.

[3] Mr Lin now seeks judicial review of the RAD's decision arguing that it arrived at unreasonable conclusions on the evidence. He asks me to quash the RAD's decision and order another panel to reconsider his case.

[4] I can find no basis for overturning the RAD's decision. In my view, its treatment of the evidence was reasonable.

[5] The sole issue is whether the RAD's decision was unreasonable.

II. The RAD's Decision

[6] The RAD pointed out a number of areas where the evidence tendered in support of Mr Lin's claim lacked credibility. In particular:

- Mr Lin maintained that he was able to leave China on his own passport, even while being sought by the PSB. The RAD thought this was implausible.
- Mr Lin had provided few details about the PSB raid in his written narrative. The RAD considered this the central event in Mr Lin's claim and drew an adverse inference from the lack of particulars.

- Mr Lin contended that he was able to escape the PSB raid by exiting through the rear doors of the building. The RAD found that it was unlikely that a sophisticated police force such as the PSB would fail to monitor the rear doors.
- There was little evidence showing that the PSB was still interested in Mr Lin.
- Mr Lin failed to provide any corroborating evidence; in fact, he failed to make any serious efforts to obtain supporting documentation.
- There was little evidence that Mr Lin was actually a Falun Gong practitioner. His knowledge of religious principles was scant. Further, he practiced Falun Gong only for the first two months out of the 14 months he spent in Canada.

[7] Based on these findings, the RAD concluded that Mr Lin's claim lacked credibility.

III. Was the RAD's decision unreasonable?

[8] Mr Lin submits that the RAD's evidentiary findings were unreasonable. In particular, contrary to the RAD's finding, he did refer to the PSB raid in his written narrative. At the hearing, he simply provided additional details, which is the purpose of an oral hearing. In addition, the RAD provided no basis for its finding that the PSB would have conducted the raid in a thorough and professional manner; documentary evidence shows that police practices are uneven across China. Mr Lin also maintains that the RAD erred by failing to make any definitive finding about whether the raid actually occurred.

[9] The RAD upheld the Board's finding that the smuggler Mr Lin hired was probably responsible for helping him fabricate a refugee claim in Canada. Mr Lin argues that there was no evidence to support the RAD's conclusion on that point.

[10] I disagree with Mr Lin's submissions.

[11] First of all, I note that Mr Lin does not challenge the RAD's conclusions that he had failed to establish that the PSB was actually looking for him; that, if the PSB was interested in him, he would likely have difficulty leaving China on his own passport; that he failed to provide corroborating evidence; and, that he had not established that he was actually a Falun Gong practitioner.

[12] Further, Mr Lin had left out many particulars about the alleged PSB raid and his subsequent actions. This was the central event in Mr Lin's claim, yet he did not mention that he fled the scene and travelled over 1,000 km overnight to prepare to leave China. Regarding the actions of the PSB, it is true that police procedures regarding the issuance of summonses and arrest warrants appears to be uneven throughout China, but this does not explain why the PSB would fail to conduct surveillance of the rear doors of a building it was raiding.

[13] Finally, while I agree with Mr Lin that there was no evidence that a smuggler assisted him with his refugee claim, the RAD reasonably concluded that Mr Lin had failed to explain the details of his itinerary from China to the United States and Canada. Since he travelled on his own

passport and would have been screened by border authorities along the way, these omissions cast doubt on his explanation that a smuggler had made all the arrangements.

IV. Conclusion and Disposition

[14] The RAD reasonably concluded that Mr Lin's refugee claim was not supported by credible evidence. Accordingly, I must dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3135-15

STYLE OF CAUSE: GAOLU LIN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: FEBRUARY 4, 2016

JUDGMENT AND REASONS: O'REILLY J.

DATED: JUNE 27, 2016

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