

Federal Court



Cour fédérale

**Date: 20160704**

**Docket: IMM-3158-15**

**Citation: 2016 FC 725**

**Ottawa, Ontario, July 4, 2016**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**CHUNMEI LUO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Ms Chunmei Luo sought refugee protection in Canada based on her fear of persecution in China as a practitioner of Falun Gong. She claims that the Chinese Public Security Bureau (PSB) raided the house where she met with fellow practitioners. She says that she escaped and hid with her cousin while her husband arranged her flight from China to the United States, and then to Canada.

[2] A panel of the Immigration and Refugee Board dismissed Ms Luo's claim because it was unsupported by credible evidence. In particular, it found that some of the documentary evidence filed by Ms Luo was unreliable. In addition, it found some of Ms Luo's testimony about the alleged raid and her travel arrangements to Canada lacked credibility. Finally, it concluded that Ms Luo was not a genuine Falun Gong practitioner, and that there was no credible basis for her claim.

[3] Ms Luo submits that the Board's decision was unreasonable because its conclusions were not based on a fair assessment of the evidence. She asks me to quash the Board's decision and order another panel to reconsider her claim.

[4] I agree with Ms Luo that the Board's decision was unreasonable. Therefore, I will grant this application for judicial review.

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

## II. The Board's Decision

[6] The Board doubted the authenticity of some of Ms Luo's documentary evidence. Ms Luo submitted a police summons in support of her contention that the PSB was looking for her. The Board found that the provenance of this document was suspect. Ms Luo testified that a friend had sent it to her, yet her friend's name did not appear on the envelope. Another person's name was there, and Ms Luo could not explain why that was so. In addition, the Board found it unlikely that authorities would have issued a mere summons in the circumstances given the degree of

concern about the practice of Falun Gong in China. Further, the summons did not identify an address to which Ms Luo was supposed to report. Given the prevalence of fraudulent documents in China, the Board found that it could not rely on the summons.

[7] The Board also doubted the genuineness of Ms Luo's hukou, otherwise known as a house register. It noted that the hukou was in poor condition and that it, too, had an uncertain provenance.

[8] Regarding the alleged raid by the PSB, the Board indicated concern about Ms Luo's testimony that the leader of her Falun Gong group had knowledge of the raid before lookouts alerted the group to the presence of the PSB. The Board doubted that was possible, and found that Ms Luo had fabricated her evidence about the raid.

[9] With respect to her travel to the US and Canada, the Board noted that Ms Luo had acquired a visa to travel to the US more than a year before the alleged PSB raid. It questioned why she failed to seek asylum in the US; her failure to do so, in the Board's view, reflected a lack of subjective fear of persecution in China.

[10] Finally, the Board found that Ms Luo's knowledge of Falun Gong was obtained through study, not practice, which was insufficient to prove that she was a genuine Falun Gong follower. According to the Board, the evidence of Ms Luo's practice of Falun Gong in Canada simply represented an attempt to bolster her unfounded refugee claim.

III. Was the Board's decision unreasonable?

[11] The Minister contends that the Board's decision was reasonable because it had valid grounds to dispute Ms Luo's documentary evidence, to question why she failed to seek asylum in the US, and to doubt the genuineness of Ms Luo's practice of Falun Gong. Accordingly, the Board reasonably concluded that Ms Luo's claim had no credible basis.

[12] I disagree.

[13] While the Board may have had valid grounds for concern about the origin of Ms Luo's documents, there was insufficient evidence to doubt their authenticity. The summons was signed by a judge and bore two official stamps. There was no evidence before the Board that the absence of a reporting address was indicative of invalidity. Further, while the Board found that it was unlikely that a summons would have been issued in the circumstances, documentary evidence indicated that police practices in this area are uneven. The Board did not consider that evidence.

[14] The same is true with respect to the Board's findings about Ms Luo's hukou. The evidence showed that the quality of this document varies widely. There was no evidence before the Board that the hukou was actually tampered with or fabricated.

[15] Regarding Ms Luo's Falun Gong practice, I note that she testified about her knowledge of Falun Gong. However, the Board found that her knowledge did not prove her genuine belief in

the practice of Falun Gong. However, at the hearing, the Board actually discouraged Ms Luo from giving testimony about her belief in the principles of Falun Gong. Further, she gave testimony about her frequent attendance at Falun Gong practices in Canada and the continuation of her study of Falun Gong after she arrived here. The Board did not challenge her testimony in those areas.

[16] Therefore, in my view, the Board's conclusion that Ms Luo's claim had not been made out on the evidence, and that her claim had no credible basis, were unreasonable in light of the evidence before it.

#### IV. Conclusion and Disposition

[17] The Board's principal findings were unsupported by the evidence. Therefore, its conclusion did not represent a defensible outcome based on the facts and the law; it was unreasonable. Therefore, I must allow this application for judicial review and order another panel of the Board to reconsider Ms Luo's claim. Neither party proposed a question of general importance, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is allowed, and the matter is returned to another panel of the Board for reconsideration.
2. No question of general importance is stated.

“James W. O'Reilly”

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Judge

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

**DOCKET:** IMM-3158-15

**STYLE OF CAUSE:** CHUNMEI LUO 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:** JULY 4, 2016

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