

Federal Court



Cour fédérale

Date: 20220802

Docket: IMM-4460-21

Citation: 2022 FC 1148

Ottawa, Ontario, August 2, 2022

PRESENT: Mr. Justice James W. O'Reilly

BETWEEN:

YONGQIU LIN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] In 2018, Mr Yongqiu Lin claimed refugee protection in Canada alleging fear of religious persecution in China as a Christian. He says he attended an underground church in China and that he was subsequently detained and interrogated by members of the Public Security Bureau (PSB). They released him after he provided an assurance that he would not engage in illegal religious activities.

[2] Mr Lin's claim was rejected by the Refugee Protection Division due to a lack of credible evidence. Mr Lin unsuccessfully appealed the RPD's decision to the Refugee Appeal Division. The RAD also found a lack of credible evidence supporting Mr Lin's claim. In particular, it found that Mr Lin's evidence was inconsistent and vague. In addition, it found that a document that Mr Lin had presented – an Administrative Punishment Decision – was not authentic. Finally, the RAD was not persuaded that Mr Lin would face religious persecution in China because he was not a genuine Christian and, in any case, would not come to the attention of Chinese authorities.

[3] Mr Lin argues that the RAD treated him unfairly by drawing adverse inferences from omissions in his testimony without giving him an opportunity to provide more detail. Similarly, he submits that the RAD should have given him a chance to address its concerns about the genuineness of the Administrative Punishment Decision. Mr Lin also maintains that the RAD's credibility findings were unreasonable because they were contradicted by the evidence before it. He asks me to quash the RAD's decision and order a new panel to reconsider his appeal.

[4] I can find no basis for overturning the RAD's decision. The RAD did not treat Mr Lin unfairly: It provided him an ample opportunity to present his case. Further, the RAD's credibility findings were not unreasonable considering the evidence that was before it. Therefore, I must dismiss this application for judicial review.

[5] There are two issues:

1. Did the RAD treat Mr Lin unfairly?

2. Were the RAD's credibility findings unreasonable?

II. The RAD's Decision

[6] The RAD found insufficient credible evidence that Mr Lin is a Christian. The RPD had asked Mr Lin questions about his knowledge of Christianity but he did not provide sufficient evidence to persuade the RPD that he was a practising Christian. The RAD agreed with the RPD's assessment; it also found it unlikely that Mr Lin would continue religious activities in China or that Chinese authorities would perceive him to be a Christian.

[7] The RAD found that Mr Lin's evidence was inconsistent about what he knew about Christianity before attending the underground church – he said he knew nothing, but later said that a friend told him about Christianity a month before his first church service.

[8] The RAD also found Mr Lin's testimony about his detention to be vague. He did not specify how many people questioned him, how long the interrogation lasted, whether he was fed, or if he was alone in the cell.

[9] With respect to the Administrative Punishment Decision, the RAD found that it contained information that contradicted Mr Lin's evidence. In particular, Mr Lin testified that he had delivered a single religious DVD to a friend; the Decision referred to multiple CDs. Further, the Decision did not contain Mr Lin's Identity Certificate Number as legally required. Finally, Mr

Lin had not referred to this document in his basis of claim form, did not produce it until more than a year later, and did not provide evidence at his hearing about how he obtained it. The RAD found the Decision not to be authentic.

III. Issue One – Did the RAD treat Mr Lin unfairly?

[10] Mr Lin submits that the RAD treated him unfairly in two respects. First, he says the RAD made a finding that his testimony about detention by the PSB was vague without giving him a chance to address that concern. Second, he submits that the RAD found the Administrative Punishment Decision to be inauthentic on grounds not addressed by the RPD and without providing him a chance to respond.

[11] On the first point, I disagree with Mr Lin. The RAD fulfilled its duty to review the evidence before the RPD and to make findings on the sufficiency of that evidence. Mr Lin bore the burden of proving that he faced a risk of religious persecution if he returned to China. Central to his claim was the allegation that he was detained by the PSB as a result of past religious activities. In addition, central to his appeal to the RAD was the question whether his evidence on that subject was credible. The RAD reviewed the evidence and found that it was vague, that is, lacking the kind of detail one would expect to be provided by a person advancing a claim of religious persecution. In doing so, the RAD did not treat Mr Lin unfairly.

[12] On the second point, again, I disagree with Mr Lin. The RPD found the Administrative Punishment Decision was likely fraudulent. So, too, did the RAD, providing supplementary reasons for its conclusion. The question of the authenticity of the decision was a live issue

before both the RPD and the RAD. It was not a new question raised by the RAD; therefore, the RAD was obliged neither to provide notice to Mr Lin that it was considering the genuineness of that document, nor to offer an opportunity to make additional submissions. It did not treat Mr Lin unfairly.

[13] Mr Lin argued before me that there was a problem with the translation of the document, which would explain the discrepancy between a single DVD and multiple CDs. Even if the translator's affidavit on which Mr Lin relies could be admitted on this judicial review (which I need not decide), the affidavit does not make clear that there was an actual error in translation: The translator states merely that the text of the Decision "suggests" a single CD rather than multiple discs. Nevertheless, the RAD gave additional reasons for finding that the Decision was not authentic; its finding did not turn solely on the apparent discrepancy between a single DVD and multiple CDs. Therefore, regardless of any error in translation, the RAD did not err in its finding on this point.

IV. Issue Two – Were the RAD's Credibility Findings Unreasonable?

[14] Mr Lin submits that the RAD's finding that his evidence was contradictory on the subject of his acquisition of knowledge about Christianity was unreasonable. He says that his basis of claim form and his oral testimony were consistent.

[15] Mr Lin also contends that the RAD's conclusion that he was not a genuine Christian was unreasonable given that he had answered most of the RAD's questions about Christianity correctly.

[16] On the RAD's first finding, I note that Mr Lin stated in his basis of claim form that a friend told him that he was a Christian and mentioned the underground church. The friend urged Mr Lin to turn himself over to Jesus and to attend the church, too. Mr Lin agreed to attend. In contrast, in his oral testimony, Mr Lin said that his friend had told him nothing about Christianity, but did tell him about the church. The RAD considered this inconsistency to be the "central issue" in Mr Lin's claim.

[17] While the inconsistency in this evidence is not profound, the RAD's concern, in the context of the claim, was that Mr Lin had not given a clear explanation for why he attended the underground church to begin with. It was not unreasonable for the RAD to be troubled by Mr Lin's evidence and to point to the inconsistency in his version of events as a ground for concern about his credibility.

[18] On the RAD's second finding, I note that Mr Lin was able to answer the RAD's questions about communion, baptism, and the last supper. However, he was not able to explain what is meant by the Pentecost or what distinguishes the Pentecostal faith from other forms of Christianity. The RAD was concerned by this lack of knowledge given that Mr Lin had claimed to be a member of the Pentecostal church since 2018. Again, in the context of the claim, the RAD's concern was not unreasonable; nor was its reliance on Mr Lin's lack of knowledge to conclude that he was not a genuine adherent of the Pentecostal faith.

[19] Therefore, I cannot conclude that the RAD's credibility findings were unreasonable.

V. Conclusion and Disposition

[20] The RAD treated Mr Lin fairly by providing him an adequate opportunity to address the issues that had been identified in the RPD's decision. Further, its credibility findings were not unreasonable because they were grounded in the evidence. Therefore, 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 IN IMM-4460-21

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-4460-21

STYLE OF CAUSE: YONGQIU LIN v. THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HEARING HELD BY VIDEOCONFERENCE IN
TORONTO, ONTARIO

DATE OF HEARING: APRIL 19, 2022

JUDGMENT AND REASONS O'REILLY J.

DATED: AUGUST 2, 2022

APPEARANCES:

Michael Korman FOR THE APPLICANT

Stephen Jarvis FOR THE RESPONDENT

SOLICITORS OF RECORD:

Korman & Korman LLP FOR THE APPLICANT
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario