

IMM-176-97

Between:

**KIN PING CHENG**

Applicant

- and -

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

Respondent

**REASONS FOR ORDER**

**TREMBLAY-LAMER J.:**

The Applicant seeks judicial review of a decision of the Convention Refugee Determination wherein he was determined not to be a Convention refugee.

The Applicant is a citizen of the People's Republic of China. He claims to have a well-founded fear of persecution if returned to his homeland based on his Christian beliefs and membership in a particular social group, that is those who violated Chinese government family planning policy.

The Applicant is of the Roman Catholic faith. He attends a secret house church in his home village. In 1993, he was arrested by government police forces while attending church service. He was detained

for three months during which time he was beaten. He was eventually released on condition he no longer engage in any religious activities.

It is his Christian beliefs which propelled the Applicant to oppose the Chinese government's family planning policy. After the birth of their first child in February 1995, the Chinese authorities forbade the Applicant and his wife from having a second child for a four-year period. However, the Applicant and his wife disregarded this directive, refusing to practice birth control. The Applicant's wife became pregnant in April of the same year and the local family planning authorities forced her to undergo an abortion. She was also given an I.U.D. at the time.

The Applicant also alleges that he was ordered sterilized. According to his statement, "it was the policy that the male be sterilized because women were experiencing health problems when having a sterilization operation shortly following abortion". Fearing sterilization, the Applicant went into hiding and made arrangements to flee the country.

First, the Board found that the Applicant could not fear persecution for having violated China's family planning policy since he and his wife had complied with the policy. They have one child and the Applicant's wife has been sterilized. This, itself, dissipates the Applicant's fear of persecution.

Second, the Board found that the Applicant did not submit any reliable evidence to support his contention that he would be persecuted by the authorities on account of his religion. Furthermore, the documentary evidence before the Board spoke of the Chinese government's tolerant attitude toward "officially-sanctioned religious organizations". These Board findings are reasonable and do not disclose any reviewable errors.

Consequently, the application for judicial review is dismissed.

Neither counsel recommended certification of a question in this matter. No question will be certified.

TORONTO, ONTARIO  
This 8<sup>TH</sup> day of October 1997

"Danièle Tremblay-Lamer"  
Judge

**FEDERAL COURT OF CANADA**

**Names of Counsel and Solicitors of Record**

COURT NO: IMM-176-97

STYLE OF CAUSE: KIN PING CHENG

- and -

THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

DATE OF HEARING: OCTOBER 8, 1997

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR ORDER BY: TREMBLAY-LAMER, J.

DATED: OCTOBER 8, 1997

**APPEARANCES:**

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For the Applicant

Mr. David Tyndale

For the Respondent

**SOLICITORS OF RECORD:**

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For the Applicant

George Thomson  
Deputy Attorney General  
of Canada

For the Respondent

**FEDERAL COURT OF CANADA**

Court No.: IMM-176-97

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**CITIZENSHIP**

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