

Federal Court



Cour fédérale

**Date: 20121129**

**Docket: IMM-9703-11**

**Citation: 2012 FC 1381**

**Ottawa, Ontario, November 29, 2012**

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

**BETWEEN:**

**CUNGUI YE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review of a decision of the Refugee Protection Division of the Immigration and Refugee Board that found that Mr. Ye, a citizen of China, is not a Convention refugee or person in need of protection. The determinative issue for the Board was “the credibility of the claimant’s [Personal Information Form] narrative and his oral testimony concerning his membership in an underground church and his pursuit by agents of the [Public Security Bureau (PSB)].”

[2] The Board also found that if Mr. Ye returned to China and if he practiced Roman Catholicism, there is no serious possibility that he would be persecuted. On my reading of the Board's decision, however, this last finding was ultimately based upon and fatally coloured by the Board's finding that the PSB had no interest in him, which was based on the Board's finding that the summons Mr. Ye provided to the Board was fraudulent.

[3] Mr. Ye raised a number of issues; however, in my view only one needs to be addressed: the Board's finding that the summons was fraudulent. That finding was unreasonable and, as the decision rests so greatly on it, the decision must be set aside.

#### **The Evidence Regarding Mr. Ye's Summons**

[4] Mr. Ye claims to have joined the Roman Catholic faith in March 2008 when he was introduced to and joined an underground Catholic church. In January 2009 he came to Canada on a student visa and he continued his practice of Catholicism in Canada.

[5] On April 29, 2009, Mr. Ye says that his parents phoned him from China to warn him that the PSB had come to his family home and accused him of attending an illegal underground church and of sending religious materials back to China. The PSB had arrested some people from his church. A summons was left with his family by the PSB on that date. Mr. Ye's summons and its translation is reproduced at Appendix A.

[6] Mr. Ye testified that his mother told him that the PSB told her to ask him to go back to China and turn himself in as soon as possible and that if the family were to assist him financially,

they would be arrested. He claims to have learned that one of the arrested members of his church was sentenced to three years in prison.

### **The Board's Analysis of the Summons and CHN42444.E**

[7] The Board examined Mr. Ye's summons in light of its National Document Package, specifically the following two documents from the Board's Research Directorate:

- CHN42444.E - 01 June 2004: China: Circumstances and authorities responsible for issuing summonses/subpoenas; procedural law; whether summonses are given to individuals or households; format and appearance; whether legality can be challenged; punishment for failure to comply with a summons (1998-2004).
- CHN103134.E - 24 June 2009: China: The manufacture, procurement, distribution and use of fraudulent documents, including passports, hukou, resident identity cards and summonses in Guangdong and Fujian in particular (2005 - May 2009).

[8] The Board concluded that his summons was not genuine. Mr. Ye submits that these documents are dated and questions whether it is safe to rely on them. Admittedly, they are dated, especially CHN42444.E which is now more than eight years old; however, it is the best, if not the only evidence the Board has with which to assess the validity of summonses produced by claimants from China. The Court is very familiar with CHN42444.E as it is regularly referred to and relied on by the Board in examining claims from Chinese citizens who produce summonses from the PSB. This case is exceptional, in my experience, in that the certified tribunal record contains not only these two documents from the Board's Research Directorate, but also the three sample summonses attached to and referenced in CHN42444.E:

Regarding the appearance and format of summonses, the associate professor of Criminal Justice provided the attached translated samples of a PRC Arrest Warrant, an Arrest-Summons for Interrogation and a Notice of Summons to Testify. No additional documents could be found among the sources consulted by the Research Directorate.

These sample summonses are not included on the reproduction of CHN42444.E on the respondent's web site and are vital in appreciating the Board's assessment of the validity of the summons in this case. The sample summonses and their translation as contained in the certified tribunal record are reproduced at Appendix B.

[9] The errors the Board found in the summons provided by Mr. Ye are the following:

1. It lacked a signature acknowledging receipt of the summons;
2. It did not identify his address, age, or gender; and
3. It was missing the date issued and date served.

[10] The Board expected Mr. Ye's summons to contain these items as a result of its understanding of CHN42444.E which recites information received from an associate professor at the University of Wisconsin that there are two types of summonses:

a) *Zhuanhuan* (summons) is used when no arrest or detention of suspects is necessary or contemplated, i.e. when cooperation is expected or flight is not likely. See Art. 92 of PRC Criminal Procedure Law. This is not a coercive measure (*qiang zhi cuoshi*).

b) *Juzhuan* (arrest summons) is used when voluntary compliance is not appropriate or *zhuanhuan* has failed. See Article 50 of PRC Criminal Procedure Law and Article 60 of Public Security Criminal Procedure Regulations. This is a coercive measure (*qiang zhi cuoshi*).

[11] CHN42444.E notes that corroborating information on Chinese summonses was provided in December 1998 by a law professor at the University of Washington:

In 21 December 1998 correspondence to the Research Directorate, a University of Washington law professor provided corroborating information on the two types of summonses. According to the law professor, *chuanhuan* is a formal order, issued in writing (*chuanhuan zheng*) or orally (*kotou chuanhuan*), that requires a person to appear at a local police station. When the person served the summons refuses to cooperate, there may be a requirement to use a coercive summons (*qiangzhi chuanhuan*) (University of Washington 21 Dec. 1998).

[12] A plain reading of the information from these sources reveals that the word “*zhuanhuan*” or “*chuanhuan*” references the act of summoning a person to appear. It may be “issued” either in written form or orally. This accords with Canadian judicial experience; Canadian courts issue orders both orally and in writing. The information reflects that there are two types of summonses: a non-coercive summons and a coercive summons. The non-coercive summons is used when the PSB wishes to question a person but he is not arrested or detained because it is expected that he will co-operate or is unlikely to flee. The coercive summons is used when the person to be questioned is arrested or detained because his co-operation is not expected or he poses a flight risk.

[13] The Board makes the following statement regarding the types of summonses and the samples attached to CHN42444.E:

I have considered the statement in Response to Information Request CHN42444.E (the “RIR”) which identifies two types of summonses: *Zhuanhuan*, which is used to summons a suspect for questioning without arrest, and *Juzhuan*, an arrest summons. The RIR states the *Zhuanhuan* summons for someone to appear for interrogation must state the person, time, and place of appearance for questioning. The duplicate copy is signed, dated and returned by the suspect who keeps one copy. The same RIR goes on to attach samples of an

arrest warrant, an arrest-summons for interrogation and a notice of summons to testify but not the *Zhuanhuan* summons.

The Board cites as authority for that last statement this Court's decision in *Chen v Canada (Minister of Employment and Immigration)*, 2011 FC 1062 [*Chen*], at para 20.

[14] The source of the Board's information and the Court's in *Chen* is the following passage from CHN42444.E:

With respect to the official procedure for issuing summonses and "arrest-summon warrants" (*juzhuan zheng*), the associate professor provided the following information:

a) Summons[es] (*zhuanhuan*) should be prepared by the public security when it is determined that arrest or detention is not necessary to procure the *voluntary appearance* of the suspect or defendant for interrogation. The Notice of Summons (*zhuanhuan tongzhi shu*) must be prepared in triplicate stating the person, time, and place of appearance for questioning. The Notice of Summons is then to be stamped with public security official chop. The original copy is kept at the police station. The duplicate copy is signed, dated and returned by the suspect, before the process is deemed completed. One copy is left with the suspect.

b) "Arrest-summons warrant" (*juzhuan zheng*) can only be obtained with the approval of county level and above public security organs upon the presentation of an "Application for Arrest - Summons" (*chengqing juzhuan baogaoshu*). The application will state clearly and support with credible evidence that a crime has been committed, the person to be arrested - summoned for interrogation is connected to the crime, and the suspect is not likely to appear voluntarily or that a summon for interrogation has been executed with no success. The "Arrest-summons warrant" will be executed with a notation of the time of arrest and at the completion of interrogation.

c) Persons held under the Summons (*zhuanhuan*) or "Arrest-summons warrant" (*juzhuan zheng*) for interrogation cannot be interrogated for longer than 12 hours. No repeated issuance of Summons (*zhuanhuan*) or "Arrest-summons warrant" (*juzhuan zheng*) is allowed (17 Apr. 2004).

[15] First, it is an error to state that CHN42444.E does not contain a sample of the summons used to procure a person's voluntary attendance for questioning. It is evident when one reads CHN42444.E and examines the three sample summonses, that a sample Notice of Summons, the form used to procure a person's voluntary attendance for questioning – the written order to appear, in other words – is included in the samples attached to CHN42444.E. It is identified as “Form 3: Zhuanhuan Tongzhishu (Notice of Summons to Testify).”

[16] Second, it is evident from examining the three sample summonses attached to CHN42444.E that the word “triplicate,” used with reference to written notices of summons, is inaccurate or misleading. A form in triplicate generally means that there are three identical or exactly corresponding copies. What is clear when one examines the sample forms is that they are not in triplicate, in that sense of the word, rather they have three parts, and those three parts do not contain identical or exactly corresponding information. It is more accurate to say that a Chinese notice of summons is a three-part form, not a form in triplicate.

[17] With specific reference to the non-coercive notice of summons, the *zhuanhuan tongzhishu* (or *zhuanhuan tongzhi shu*), CHN42444.E provides:

The Notice of Summons (*zhuanhuan tongzhi shu*) must be prepared in triplicate stating the person, time, and place of appearance for questioning. The Notice of Summons is then to be stamped with public security official chop. The original copy is kept at the police station. The duplicate copy is signed, dated and returned by the suspect, before the process is deemed completed. One copy is left with the suspect.

[18] What Form 3: Zhuanhuan Tongzhishu (Notice of Summons to Testify) shows is that it has three parts: (Part 1) Retained Copy of Notice Summons to Testify which is referred to in the

passage above as the “original copy;” (Part 2) Duplicate Page of Notice of Summons to Testify which is signed and dated by the “suspect” and which is referred to in the passage above as the “duplicate copy;” and (Part 3) Notice of Summons to Testify which is referred to in the passage above as the copy left with the suspect.

[19] When one realizes that the written form is a three-part form and not a form in triplicate, one quickly sees the Board’s errors.

[20] First, the Board correctly notes that Mr. Ye’s summons does not have a signature acknowledging receipt of the summons. However, it was unreasonable for the Board to expect that it would have such a signature because, while CHN42444.E states that the “duplicate copy is signed, dated and returned by the suspect” or a family member if it is served with the summons, the “duplicate copy” is really the second part of the form which is returned to the PSB after it is signed. Perversely, in light of the Board’s analysis, it is only if Mr. Ye had produced a summons that he or a family member had signed, that its validity could reasonably be questioned because it should be in the possession of the PSB, not Mr. Ye.

[21] Second, the Board also correctly notes that Mr. Ye’s summons does not identify his address, age, or gender. However, the sample Form 3 reflects that such information is contained only on Part 1 which is kept at the PSB and Part 2, which is signed and returned to the PSB. It does not appear on Part 3, which is the portion of the written form that Mr. Ye or his family would have been given. Again and perversely, in light of the Board’s analysis, it is only if Mr. Ye had produced a



summons that identified his address, age or gender, that its validity could be questioned because it should be in the possession of the PSB, not Mr. Ye.

[22] Third, the Board also correctly notes that Mr. Ye's summons does not contain the date issued and the date served. However, the sample Form 3 reflects that the issue date is in Part 1 and the date of service is in Part 2. Part 3, the part that Mr. Ye would be expected to have contains the "chop" of the PSB and the date that it was affixed – the precise information shown on Mr. Ye's Summons. Again and perversely, in light of the Board's analysis, it is only if Mr. Ye had produced a summons that identified the date of issue and date of service, that its validity could be questioned because it should be in the possession of the PSB, not Mr. Ye.

[23] The Board also finds that Mr. Ye would not have been issued a non-coercive summons; he would have been issued a coercive summons, an arrest-summons for interrogation, such as is illustrated in sample Form 2. The basis for that conclusion is stated to be "his arrest was both necessary and contemplated by the PSB."

[24] I find the Board's reasoning on this point to be highly speculative and unreasonable. Given that the summons included a charge of "spreading the religion to China from abroad" the PSB knew that Mr. Ye was not in China. This is confirmed by the statements made by the PSB to his parents that he should return home and turn himself in. As Mr. Ye was already out of the country, arguably the use of a coercive summons would not have been appropriate because he could not be arrested or detained, and he was clearly no flight risk. It is equally possible that the PSB would not wish to scare him off by using a coercive summons. In short, in the circumstances, the Board's observation

regarding the type of summons used was simply insufficient to reasonably ground its adverse inference.

[25] When the Board questioned Mr. Ye as to the alleged discrepancies between what the Board expected the summons to look like and what it did look like, his response, which the Board did not accept was: “I don’t know what the summons is supposed to look like, but this is what my mother sent me.” Frankly, I have no idea what other response one could have expected him to offer.

[26] The Board’s understanding of CHN42444.E and its expectation as to what a valid summons from China would look like are fatally flawed. As a result, it rejected Mr. Ye’s evidence and used the conflict with its understanding of CHN42444.E as a basis for its credibility finding. This decision is quashed and the application for protection is to be re-determined by a differently constituted Board.

[27] Neither party proposed a question for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application is allowed, the Board's decision is set aside, the application for protection is to be determined by a differently constituted Board, and no question is certified.

"Russel W. Zinn"

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Judge

**APPENDIX A**

JUN-02-2011 07:23 From:

To:416 364 3818

P. 19/20

749/7

The Public Security Bureau of Fuqing City

Summons

Rong Gong (Gangtou) Chuan (2009)No: 087

Ye, Cun Gui:

Because you were involved in illegal religious activities and spreading the religion to China from abroad according to the Regulation 92(1) of the Criminal Law of the People's Republic of China, you are required to report at 9:30 on May 03, 2009 to the Public Security Bureau of Fuqing City for enquiry.

Stamped on April 29, 2009 by the Public Security Bureau of Fuqing City

The time of the arrival of the person summonsed:  
\_\_\_Year\_\_\_Month\_\_\_Day\_\_\_Hour\_\_\_Minute

The time of the end of the inquiry \_\_\_Year\_\_\_Month\_\_\_Day\_\_\_Hour\_\_\_Minute

Signature of the person summonsed:



(750) 18

# 福清市公安局 传唤通知书

融公(港)传字【2009】第087号

叶存贵：

根据《中华人民共和国刑事诉讼法》第九十二条第一款之  
规定，现传唤你于 2009 年 5 月 3 日 9 时 30 分到

福清市公安局 关于参加非法聚会接受讯问。

会活动及从国外向中国传教



2009 年 4 月 29 日

被传唤人到达时间： 年 月 日 时 分  
讯问查证结束时间： 年 月 日 时 分  
被传唤人（签名）：

此联交被传唤人

专  
送  
叶存贵  
收  
2009.5.3

APPENDIX B

FORM 1 JULIU ZENG  
CARROT WARRANT  
CHN 42444.EF

×××公安局 ①  
拘留证 ②  
(存根) ③

字( )号 ④

- ⑤ 犯罪嫌疑人 男 女 岁
- ⑥ 住址 \_\_\_\_\_
- ⑦ 单位及职业 \_\_\_\_\_
- ⑧ 拘留原因 \_\_\_\_\_
- ⑨ 拘留时间 \_\_\_\_\_
- ⑩ 批准人 \_\_\_\_\_
- ⑪ 执行人 \_\_\_\_\_
- ⑫ 填发时间 \_\_\_\_\_
- ⑬ 填发人 \_\_\_\_\_

.....(一九××)×公预字.....第.....壹参贰.....号.....

×××公安局 ⑭  
拘留证 ⑮  
字( )号 ⑯

根据《中华人民共和国刑事  
诉讼法》第六十一条之规定,兹  
决定由本局侦查人员  
对居住在\_\_\_\_\_的\_\_\_\_\_的执  
行拘留。 ⑰

⑱ 局长 (印)  
⑲ 公安局(印)  
本证已于\_\_\_\_年\_\_\_\_月  
\_\_\_\_日\_\_\_\_时向我宣布。 ⑳  
㉑ 被拘留人

.....(一九××)×公预字.....第.....壹参贰.....号.....

⑳ ×××公安局  
㉑ (副页)  
㉒ 拘留证  
㉓ 字( )号

根据《中华人民共和国刑事  
诉讼法》第六十一条规定,兹决  
定由本局侦查人员\_\_\_\_\_对  
居住在\_\_\_\_\_的\_\_\_\_\_执行拘  
留,现送\_\_\_\_\_看守所关押。 ㉔

被拘留原因 \_\_\_\_\_ ㉕  
被拘留时间 \_\_\_\_\_ ㉖  
局长 (印) ㉗  
公安局(印) ㉘  
年 月 日 ㉙

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## Form 1: Juliu Zheng (Arrest Warrant)

Field	Translation
	<b>Retained Copy of Arrest Warrant</b>
1	XXX Public Security Bureau
2	Arrest Warrant
3	Retained copy
4	Serial number
5	Criminal suspect <u>name</u> M/F <u>age</u>
6	Address
7	Unit and occupation
8	Reason for arrest
9	Time of arrest
10	Authorized person
11	Execution person
12	Filled out time
13	Filled out person
	<b>Arrest Warrant</b>
14	XXX Public Security Bureau
15	Arrest Warrant
16	Serial number
17	According to <<PRC Criminal Procedure Law>> Article 61, it has been decided that investigator from this Bureau <u>(name)</u> will effectuate arrest at the resident <u>(address)</u> of <u>(named person)</u>
18	Bureau Chief (Chop)
19	Public Security Bureau (Chop)
20	This warrant on _____ year _____ month _____ day time has been declared to me.
21	Arrested person (signature)
	<b>Duplicate Copy of Arrest Warrant</b>
22	XXX Public Security Bureau
23	Duplicate copy
24	Arrest Warrant
25	Serial number
26	According to <<PRC Criminal Procedure Law>> Article 61, it has been decided that investigator from this Bureau <u>(name)</u> will effectual arrest at the resident <u>(address)</u> of <u>(named person)</u> , now escort <u>(named person)</u> to detention center for detention.
27	Reason of arrest
28	Time of arrest
29	Bureau Chief (Chop)
30	Public Security Bureau (Chop)
31	_____ year _____ month _____ day _____ time has been declared to me.

CHN42444.F

CHN424444.EF  
JU ZHIAN ZHENG  
FRAM Q: (ARREST - SUMMARY (FOR INT BRIGADATION))

\* \* \* 公安局 ①  
 拘传证 ②  
 (存根) ③  
 ×公刑字(19×××)175号④

犯罪嫌疑人 孙×× 男 女 34岁 ⑤  
 住 址 ×××市河东区胜利路7号 ⑥  
 单位及职业 ××市轮胎厂工人 ⑦  
 拘传原因 盗窃 ⑧  
 拘传时间 19×××年10月7日 ⑨  
 批准人 李×× ⑩  
 执行人 江××, 李×× ⑪  
 填发时间 19×××年10月6日 ⑫  
 填发人 李×× ⑬

# 拘传证 ⑮

\* \* \* 公安局 ⑭  
 ×公刑字(19×××)175号 ⑯

根据《中华人民共和国民事诉讼法》第四十五条 ⑰  
 之规定, 兹派我局侦查人员 江××, 李×× 对居住在  
 ××市河东区胜利路7号的 孙×× 予以拘传。

局长(印) ⑱  
 (公安局印) ⑲  
 19××年10月7日 ⑳

本证已于 19××年10月7日 19时 向我宣布。 ㉑  
 被拘传人 孙×× ㉒

字 第 号

88



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Form 2: Juzhuan Zheug (Arrest-Summon (for Interrogation))

CH243444.EE

Field	Translation
<b>Retained Copy of Arrest-Summon (for Interrogation)</b>	
1	XXX Public Security Bureau
2	Arrest-Summon (for Interrogation)
3	Retained copy
4	Serial number
5	Criminal Suspect name <sup>1</sup> M/F age
6	Address
7	Unit and occupation
8	Reason for arrest
9	Time of arrest (y/m/d)
10	Authorized person
11	Execution person
12	Filled out time (y/m/d)
13	Filled out person
<b>Arrest - Summon for Interrogation</b>	
14	XXX Public Security Bureau
15	Arrest - Summon Warrant
16	Serial number
17	According to <<PRC Criminal Procedure Law>> Article 45, it has been decided that investigator from this Bureau (name) will effectuate arrest at the resident (address) of (named person)
18	Bureau Chief (Chop)
19	Public Security Bureau (Chop)
20	Year/month/date
21	This warrant on _____ year _____ month _____ day time has been declared to me.
22	Arrested person (signature)

<sup>1</sup> This is a real - executed warrant with identifying information deleted. I have ignored the real name and other particulars on the Arrest-Summon for Interrogation, i.e. treating it as a generic form.

FORM 3: ZIYUANHUAN 1282001 TONG G ZHISHU  
(NOTICE OF SUMMON TO TESTIFY)  
CHN42444.EF

×××公安局 (1) 传唤通知书 (2) 字( )号 (4)

×××公安局 (15) 传唤通知书 (16) (副本) (17) 字( )号 (18)

×××公安局 (28) 传唤通知书 (29) 字( )号 (30)

根据《中华人民共和国刑事诉讼法》第九十二条之规定, 现传唤居住在 \_\_\_\_\_ 于 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日 \_\_\_\_\_ 时到 \_\_\_\_\_ 接受讯问。

(公安局印) (32) \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日 (33)

..... (一九XX) X公预字..... 第..... 拾贰..... 号.....

犯罪嫌疑人 \_\_\_\_\_ 年龄 \_\_\_\_\_ 民族 \_\_\_\_\_ (19)

现在住址 \_\_\_\_\_ (20)

工作单位 \_\_\_\_\_ (21)

送达处所 \_\_\_\_\_ (22)

送达时间 \_\_\_\_\_ (23)

传唤通知书我已收到。 (24)

犯罪嫌疑人 \_\_\_\_\_ (25)

\_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日 (26)

送达人 \_\_\_\_\_ (27)

..... (一九XX) X公预字..... 第..... 拾贰..... 号.....

×××公安局 (1) 传唤通知书 (2) (存根) (3) 字( )号 (4)

犯罪嫌疑人 \_\_\_\_\_ 男 \_\_\_\_\_ 女 \_\_\_\_\_ 岁 (5)

住址 \_\_\_\_\_ (6)

单位及职业 \_\_\_\_\_ (7)

传唤原因 \_\_\_\_\_ (8)

应到时间 \_\_\_\_\_ (9)

应到地点 \_\_\_\_\_ (10)

批准人 \_\_\_\_\_ (11)

送达人 \_\_\_\_\_ (12)

填发时间 \_\_\_\_\_ (13)

填发人 \_\_\_\_\_ (14)

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Form 3: Zhuanhuan Tongzhishu (Notice of Summon to Testify)

CHANDU444EE

Field	Translation
	<b>Retained Copy of Notice of Summon to Testify</b>
1	XXX Public Security Bureau
2	Notice of Summon to Testify
3	Retained copy
4	Serial number
5	Criminal suspect name M/F age
6	Address
7	Unit and occupation
8	Reason for summon
9	Time to arrive
10	Place to go
11	Authorized person
12	Dispatch person
13	Filled out time
14	Filled out person
	<b>Duplicate Page of Notice of Summon to Testify</b>
15	XXX Public Security Bureau
16	Notice of Summon to Testify
17	Duplicate page
18	Serial number
19	Criminal suspect name M/F age ethnicity
20	Current address
21	Work unit
22	Dispatch to place
23	Dispatch time
24	Notice of Summon to Testify has been received by me.
25	Criminal suspect (signature)
26	Year/month/date
27	Dispatch person
	<b>Notice of Summon to Testify</b>
28	XXX Public Security Bureau
29	Notice of Summon to Testify
30	Serial number
31	According to <<PRC Criminal Procedure Law>> Article 92, now summon residing at (address) 's (name) to appear on _____ year _____ day month _____ time to (place) to be interrogated
32	Public Security Bureau (Chop)
33	year month day

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

**DOCKET:** IMM-9703-11

**STYLE OF CAUSE:** CUNGUI YE v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** October 25, 2012

**REASONS FOR JUDGMENT AND JUDGMENT:** ZINN J.

**DATED:** November 29, 2012

**APPEARANCES:**

Shelley Levine FOR THE APPLICANT

Veronica Cham FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

LEVINE ASSOCIATES FOR THE APPLICANT  
Barristers and Solicitors  
Toronto, Ontario

WILLIAM F. PENTNEY FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario