

Federal Court



Cour fédérale

Date: 20121210

Docket: IMM-2526-12

Citation: 2012 FC 1454

Ottawa, Ontario, December 10, 2012

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

YUNXIN LIN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] In 2009, Mr Yunxin Lin arrived in Canada from China claiming that the Public Security Bureau (PSB) was seeking his arrest. He sought refugee protection based on his fear of persecution by the PSB as a result of his efforts to stop the homes in his neighbourhood from being expropriated and demolished to build a highway. Mr Lin had argued with officials, circulated a petition, and mounted a protest. During the protest, Mr Lin pushed an official who fell backwards and injured his

head. The official accused Mr Lin of assault and called police. Mr Lin fled, went into hiding, and escaped to Canada.

[2] A panel of the Immigration and Refugee Board dismissed Mr Lin's refugee claim. The Board found that the summons Mr Lin submitted to show that the PSB sought his arrest was a fake. In addition, Mr Lin failed to provide any corroborative evidence to support his contention that his uncle and six other persons had been arrested, convicted and sentenced in relation to the same event. Finally, the Board found that, even if the PSB was looking for Mr Lin, he was at risk of prosecution for assault, not persecution for political activity. Therefore, his claim was unconnected to any ground recognized by the Refugee Convention.

[3] Mr Lin argues that the Board erred by dismissing the summons and requiring him to provide corroborative documentary evidence. In addition, Mr Lin maintains that the Board wrongly concluded that he was not at risk of persecution. Documentary evidence shows that opponents of the government's expropriation activities are often mistreated. Mr Lin asks me to conclude that the Board's decision was unreasonable, and to quash it.

[4] I can find no basis on which to overturn the Board's decision and must, therefore, dismiss this application for judicial review.

[5] Mr Lin raised three issues, but I find it necessary to deal only with one. In my view, the Board's conclusion that the PSB is pursuing Mr Lin, if at all, for purposes of laying an assault charge, not for political persecution, was reasonable. Accordingly, whether the Board erred in its

findings in relation to the summons and the documentary evidence is immaterial. Those issues go to the question of whether the PSB is actually pursuing Mr Lin. Assuming, without deciding, that it is, I need only address the question whether he is at risk of persecution, or simply prosecution.

II. Was the Board's conclusion on persecution versus prosecution unreasonable?

[6] Mr Lin provided the Board with documentary evidence showing that government officials sometimes retaliate against persons who oppose expropriation or the amount of compensation they are offered for their property. The Board made no reference to this evidence in its reasons. Mr Lin argues that the Board's conclusion that he does not face persecution was, therefore, unreasonable.

[7] I disagree. The evidence showed that Mr Lin had indeed vocally opposed the government's actions. His conduct could have been regarded as political activity and prompted the government to retaliate in a persecutory fashion. However, there is no evidence of that. In fact, Mr Lin had trouble getting the government to listen to his concerns or respond to his correspondence. The PSB got involved only in response to a complaint of assault. In addition, according to Mr Lin's own testimony, the others were arrested and prosecuted for disturbing the peace and being involved in a violent confrontation, not simply because of their opposition to the expropriation.

[8] In light of this evidence, the Board's conclusion that the risk facing Mr Lin, if any, relates to the possibility of a prosecution under a law of general application was not unreasonable.

III. Conclusion and Disposition

[9] The evidence before the Board showed that Mr Lin may face prosecution for assault, but not persecution on political grounds. While persecution of landowners sometimes occurs, there was no evidence to support Mr Lin's claim that government officials reacted to his conduct in a persecutory fashion. The Board's conclusion to the contrary was transparent, intelligible, and represented a defensible outcome based on the facts and the law. I must, therefore, 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 questions of general importance are stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2526-12

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

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: November 20, 2012

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: December 10, 2012

APPEARANCES:

Jennifer Luu FOR THE APPLICANT

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SOLICITORS OF RECORD:

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