

**Date: 20080430**

**Docket: IMM-3081-07**

**Citation: 2008 FC 558**

**Ottawa, Ontario, April 30, 2008**

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

**BETWEEN:**

**CHAO HUI LIN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Mr. Chao Hui Lin was a crew member of a ship that docked in Canada in 2006. When he arrived on shore he learned from his family that the Public Security Bureau (PSB) had been looking for him because of his membership in an underground Christian church in China. Two fellow worshippers had been arrested. Because his father had told the PSB where Mr. Lin worked, Mr. Lin did not return to the ship.

[2] Mr. Lin applied for refugee protection because of his fear of religious persecution in China. A panel of the Immigration and Refugee Board dismissed his claim because it disbelieved his

account of events. Mr. Lin argues that the Board's decision was unreasonable and asks me to order a new hearing. I agree with Mr. Lin and must, therefore, allow this application for judicial review.

## I. Issue

[3] Was the Board's decision unreasonable?

## II. Analysis

[4] I can overturn the Board's decision only if it was unreasonable, in the sense that it falls outside the "range of possible, acceptable outcomes which are defensible in respect of the facts and law": *Dunsmuir v. New Brunswick*, 2008 SCC 9, at para. 47.

### 1. Factual Background

[5] Mr. Lin explained to the Board that he learned about Christianity in December 2005 from a friend who worked as a driver. Mr. Lin was on shore leave at the time, and was visiting family and friends. Mr. Lin began to attend services at his friend's underground church. When he returned to his ship two months later, he felt less anxious about the danger of working at sea.

### 2. The Board's Decision

[6] The Board considered Mr. Lin's evidence and noted the following issues arising from his testimony:

- (i) Mr. Lin had said that his friend had a similar job to his own. But the friend worked as a driver, not on board a ship. The Board concluded that the two jobs were not similar;
- (ii) Mr. Lin had said that God protected members of underground churches. The Board wondered, therefore, why Mr. Lin felt it was necessary for worshippers to take precautions against being discovered by the PSB. It found his testimony to be contradictory;
- (iii) The Board did not believe that Mr. Lin would have become a Christian after a brief conversation with a friend he had not seen in more than a year;
- (iv) Mr. Lin stated in his written narrative that he had been pessimistic about human life and fearful of working at sea. It was for this reason that his friend suggested he become involved in Christianity. However, when he first arrived in Canada, he told an immigration officer at the border that he joined the church because his friend introduced him to it. He did not say anything about being pessimistic or afraid. The Board concluded that his evidence was not credible on this point;
- (v) Mr. Lin gave inconsistent evidence about the date of the PSB's raid on the church;

- (vi) Mr. Lin stated that he would be willing to go back to China if his fellow worshippers were released by the PSB. The Board found that his fear of persecution was, therefore, “not significant”;
- (vii) The Board felt that the PSB would have contacted the ship right after conducting its raid in April 2006 in an effort to locate Mr. Lin; and
- (viii) Mr. Lin was unclear whether he had learned of the arrests of fellow worshippers on April 22, 2006 from his father or on April 26, 2006 from his sister.

[7] On the basis of these findings, the Board concluded that Mr. Lin was not a member of an underground church in China. It found that his ability to answer questions about Christianity and the evidence he provided about his religious activities in Canada did not corroborate his “intentions”. It concluded, therefore, that he was neither a genuine Christian nor wanted by the PSB.

### III. Mr. Lin’s Dispute with the Board’s Findings

[8] Mr. Lin argues that the Board’s findings were not supported by the evidence. In particular, he submits that:

- (i) He stated that his friend’s job as a driver presented similar dangers to those he faced on board the ship; he did not say that being a driver was a similar job to his;

- (ii) There is no contradiction between a belief in God's protection and the taking of precautions against detection by authorities;
- (iii) There is nothing inherently implausible about the kind of religious epiphany that Mr. Lin described;
- (iv) There is no reason why he would have mentioned the basis for his religious beliefs when he first arrived in Canada and spoke to an immigration officer, particularly when he was not asked about it;
- (v) He explained to the Board that the inconsistency about the date of the raid on the church was merely a typographical error;
- (vi) His statement that he would be willing to return to China if his friends were released from custody did not mean that he was unafraid of religious persecution. He simply acknowledged that he would be prepared to return if conditions in China changed for the better; and
- (vii) The timing of the PSB's communication with the ship was a matter of pure speculation.

[9] The only finding Mr. Lin did not expressly dispute relates to the point in time when Mr. Lin first learned about the raid.

[10] Mr. Lin contends that the Board's analysis did not reasonably lead to a conclusion that he was not a genuine Christian, had not been a member of an underground church in China, and was not pursued by the PSB.

[11] Of course, the Board was entitled to draw negative inferences from the discrepancies about dates. However, having reviewed the record, I cannot find a basis for the sweeping findings the Board made about the implausibility of Mr. Lin's conversion to Christianity and his participation in an underground church. The inconsistencies in the evidence noted by Board are relatively minor and do not justify a complete rejection of Mr. Lin's account of events. The Board clearly seemed skeptical that an intelligent and educated young man like Mr. Lin would make a sudden conversion to a faith of which he had no previous knowledge and which exposed him to serious risks. Perhaps the Board was right to be doubtful, but it was still obliged to give careful consideration to the evidence before rejecting Mr. Lin's claim.

[12] In my view, the Board's conclusion falls outside the range of acceptable and defensible outcomes because it was not supported by the evidence. Therefore, I must allow this application for judicial review and order a new hearing before a different panel of the Board. 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 is allowed. The matter is referred back to the Board for a new hearing before a different panel;
2. No question of general importance is stated.

“James W. O’Reilly”

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Judge

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

**DOCKET:** IMM-3081-07

**STYLE OF CAUSE:** LIN v. M.C.I.

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** March 19, 2008

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

**DATED:** April 30, 2008

**APPEARANCES:**

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FOR THE APPLICANT

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