

Federal Court



Cour fédérale

Date: 20110902

Docket: IMM-5714-10

Citation: 2011 FC 1045

Ottawa, Ontario, September 2, 2011

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

YI LIANG LIU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] In 2008, Mr. Yi Liang Liu sought refugee protection in Canada, claiming that the underground Christian church to which he had belonged in Fujian province, China, had been raided by the Public Security Bureau [PSB]. He maintains that the PSB searched his home, confiscated his personal documents, arrested other congregants, and still continue to pursue him.

[2] A panel of the Immigration and Refugee Board dismissed Mr. Liu's claim after it found that it was not supported by the documentary evidence about the situation in Fujian, and that Mr. Liu would be able to practise Christianity in Fujian without persecution. Mr. Liu argues that the Board erred in its treatment of the documentary evidence and applied the wrong legal test of what amounts to "persecution." He asks me to quash the Board's decision and order a new hearing.

[3] I can find no grounds, however, for overturning the Board's decision and must, therefore, dismiss this application for judicial review. In my view, neither the Board's interpretation of the documentary evidence nor its conclusion that Mr. Liu would not be persecuted in Fujian was unreasonable.

[4] There are two issues:

1. Did the Board err in its treatment of the documentary evidence?
2. Did the Board apply the wrong test for "persecution"?

II. The Board's Decision

[5] The Board had some concerns about Mr. Liu's credibility. For example, he gave contradictory evidence about whether and when the PSB had confiscated his documents. It concluded that Mr. Liu had filed a fraudulent "List of Seized Items."

[6] The Board noted that, according to the documentary evidence, it is common for the PSB to leave a warrant or summons with the family members of a suspect whose whereabouts are unknown. However, there was no evidence that a warrant had been issued for Mr. Liu.

[7] The Board went on to review the documentary evidence regarding the suppression of Christianity in China, particularly in Fujian. It noted that the principal targets are church leaders, house churches in urban areas, Christian publications, and foreign missionaries. In the opinion of the President of the China Aid Association, persecution sometimes takes the form of warnings, fines and harassment, rather than overt mistreatment of practitioners. In the Board's view, however, if members of Mr. Liu's house church had actually been arrested, observers would have reported it.

[8] The Board accepted that Catholics were persecuted in Fujian, but not Protestants, such as Mr. Liu. There was some evidence of persecution of house churches, but it was not widespread. The evidence also reported the destruction of a church in Fujian, but made no reference to its size, denomination, or the reason why it was demolished. In sum, the documentary evidence did not support Mr. Liu's claim of persecution on religious grounds. The Board concluded that Mr. Liu's church had not been raided and that the PSB is not looking for him.

III. Did the Board err in its treatment of the documentary evidence?

[9] Mr Liu argues that the Board erred when it found that the PSB would likely have left a warrant or summons with his family if it was really interested in him. The documentary evidence supported the Board's conclusion, but Mr. Liu argues that the information in the documentary

evidence was not reliable. The source of that information was an unidentified representative of a little-known group called “Human Rights in China”, who appeared to have relied on the opinion of an unidentified lawyer in Hong Kong. Mr. Liu concedes that the Board is entitled to consider any evidence it considers credible and trustworthy, but there was nothing to indicate that this particular evidence was reliable.

[10] In addition, the same document contained an opinion from other sources, the Open Society Institute and a University of Washington professor, stating that warrants and summonses are usually issued to the individual being sought, not a family member. The Board did not explain why it accepted one opinion and rejected another within the same documentary source.

[11] I note that Mr. Liu has not challenged the Board’s adverse credibility finding or its conclusion that he did not fit the profile of someone at risk for religious persecution. On those two grounds alone, its conclusion that the PSB was not looking for him falls within the range of reasonable outcomes.

[12] However, the Board was entitled to weigh the evidence regarding the issuance of warrants and summonses. I also disagree with Mr. Liu’s submission that the evidence contained two irreconcilable opinions about procedures in China. While the proper procedure may be to leave a summons with the named individual, the Open Society Institute’s own statement indicates this is not always the case. Practices vary.

[13] Therefore, I cannot conclude that the Board erred in its treatment of the documentary evidence on warrants and summonses.

IV. Did the Board apply the wrong test of “persecution”?

[14] Mr. Liu submits that the Board erred by equating “persecution” with arrests, detention and raids on churches. It did not consider whether he would be able to practise his religion openly and freely in China.

[15] However, I do not read the Board’s decision as amounting to a conclusion that, simply because he is unlikely to be arrested or detained, Mr. Liu can practice his religion in China. The Board disbelieved Mr. Liu’s allegation that his church had been raided and that he was wanted by the PSB. It went on to find that his profile, and the religious activities he was involved in, would not be of interest to the PSB. It also noted the dearth of evidence of religious persecution in Fujian of any sort, including fines, short-term detentions or the confiscation of materials.

[16] Accordingly, I cannot conclude that the Board applied the wrong test for “persecution.”

V. Conclusion and Disposition

[17] The Board did not err in its treatment of the documentary evidence or in its analysis of the issue of persecution. Accordingly, I can find no grounds for overturning the Board’s decision and

must 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 question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5714-10

STYLE OF CAUSE: YI LIANG LIU
v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: May 5, 2011

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

DATED: September 2, 2011

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