

Federal Court



Cour fédérale

**Date: 20100409**

**Docket: IMM-2667-09**

**Citation: 2010 FC 370**

**Ottawa, Ontario, April 9, 2010**

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

**BETWEEN:**

**YI ZHI ZHENG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] In 2007, Mr. Yi Zhi Zheng sought refugee protection in Canada, claiming that he was pursued by the Public Security Bureau (PSB) in China for selling Falun Gong books. A panel of the Immigration and Refugee Board dismissed his claim because it did not believe his account of events. Mr. Zheng argues that the Board's findings amounted to speculation and that its conclusion, therefore, was unreasonable. He asks me to order another panel of the Board to reconsider his claim.

[2] I can find no basis for overturning the Board's decision and must, therefore, dismiss this application for judicial review.

[3] The only issue is whether the Board's finding that Mr. Zheng was not credible was unreasonable.

## II. Analysis

### (a) Factual background

[4] According to Mr. Zheng's account, his parents operated a bookstore in a village in Min Hou County, China. Mr. Zheng worked there part-time. A village leader, Mr. Chen, wanted to buy the store for his son-in-law but Mr. Zheng's parents were not willing to sell.

[5] In July 2007, Mr. Zheng was working at the store alone. His parents were visiting his aunt. Mr. Chen came into the store and then left. Shortly thereafter, the PSB arrived and searched the store. They found some prohibited Falun Gong materials and arrested Mr. Zheng.

[6] Mr. Zheng says the PSB detained him for 15 days. Naturally, they asked about the whereabouts of his parents. He was released after his uncle paid a fine and a bribe. He stayed with a colleague for a while. His parents and wife went into hiding. Friends told him that PSB officers were looking for him, so he decided to leave China. He has since learned that Mr. Chen's son-in-law has, indeed, taken over the store, confirming his suspicions that Mr. Chen planted the Falun Gong materials. He also says that the PSB continues to look for him and his parents.

### (b) The Board's decision

[7] The Board's main concern was the apparent disinterest that the PSB showed in Mr. Zheng's parents, the owners of the bookstore, compared to their interest in him, a casual employee. The PSB took him into custody for 15 days and interrogated him. By contrast, the PSB did not seem very interested in the proprietors of the store.

[8] Mr. Zheng asserted that his parents were in hiding with an aunt, a distant relative unknown to the PSB. However, they were still in Min Hou County. The Board noted that there was documentary evidence from which the PSB could probably ascertain the identity of Mr. Zheng's relatives. In addition, the Board referred to evidence about the ability of Chinese authorities to locate people. Based on this evidence, the Board concluded that the PSB "would have taken steps to find and question" Mr. Zheng's parents and "[c]learly the authorities would be able to find them".

[9] The Board also questioned why his parents had not fled China, as Mr. Zheng had. He stated that it would be hard for them to leave, in part because his father had a serious heart condition. In fact, because he was in hiding, his father was unable to obtain medical treatment for his ailment. The Board found it implausible that Mr. Zheng's father would not have seen a doctor since 2007.

[10] In the result, the Board found Mr. Zheng's evidence to be neither credible nor trustworthy and rejected his claim for refugee protection.

(c) Was the Board's finding that Mr. Zheng was not credible unreasonable?

[11] Mr. Zheng argues that the Board's findings were not based on the evidence before it and, therefore, that they should be regarded as no more than speculation. I disagree.

[12] According to Mr. Zheng's own evidence, the PSB would have been extremely motivated to locate his parents. Yet, the PSB did not, apparently, rely on its available resources to locate Mr. Zheng's parents, who continue to reside in the same county and with a relative, albeit a distant one.

[13] The Board relied on documentary evidence about the capacity of Chinese authorities to locate citizens. It also referred to evidence that would probably have led the PSB to Mr. Zheng's parents, if they had been motivated to find them. The Board concluded, reasonably in my view, that if Mr. Zheng's account of events was true, his parents would have been arrested too.

[14] I cannot agree with Mr. Zheng's characterization of the Board's conclusion as being no more than speculation; nor can I find that there was no evidence supporting it. Accordingly, I cannot conclude that the Board's decision was unreasonable.

### III. Conclusion and Disposition

[15] I cannot find that the Board's decision was unreasonable. It was based on the evidence before it and within the range of possible, defensible outcomes based on the facts and the law (*Dunsmuir v. New Brunswick*, 2008 SCC 9, at para. 47). Accordingly, I must dismiss this application for judicial review. Neither party proposed a question of general importance for certification, 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”  
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Judge

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

**DOCKET:** IMM-2667-09

**STYLE OF CAUSE:** ZHENG v. MCI

**PLACE OF HEARING:** Toronto, ON.

**DATE OF HEARING:** April 6, 2010

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

**DATED:** April 9, 2010

**APPEARANCES:**

Shelley Levine

FOR THE APPLICANT

Monmi Goswami

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

LEVINE ASSOCIATES  
Toronto, ON.

FOR THE APPLICANT

JOHN H. SIMS, Q.C.  
Deputy Attorney General of Canada  
Toronto, ON.

FOR THE RESPONDENT