

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT

[REDACTED]
[REDACTED]

LIN & VALDEZ, L.L.P.
STEWART LIN, ESQ.
9999 BELLAIRE BLVD, SUITE 360
HOUSTON, TX 77036

Date: Oct 17, 2013

File A099 [REDACTED]

In the Matter of:
[REDACTED]

Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____. The appeal must be accompanied by proof of paid fee (\$110.00).

Enclosed is a copy of the oral decision.

Enclosed is a transcript of the testimony of record.

You are granted until _____ to submit a brief to this office in support of your appeal.

Opposing counsel is granted until _____ to submit a brief in opposition to the appeal.

✓ Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,

[REDACTED]

Immigration Court Clerk

UL

cc: ASSISTANT CHIEF COUNSEL - DHS
[REDACTED]
[REDACTED]

adverse credibility finding are not warranted, and the remaining facts are not sufficiently related to the claim regarding religious conditions in China to make an adverse finding. As such, the Court finds that Respondent is credible.

Religion/Member of Particular Social Group/Persecution/Torture

Particularly in light of the BIA decision, this Court accepts Respondent's designation of "religion" and his membership in the Christian religion as valid, possible grounds for relief, if the other elements are met. Thus, this is not a basis for denying relief.

Additionally, Respondent has established a nexus, i.e. that the action taken against him is based on his membership in this Christian group or is based on his religion.

Acquiescence By Gov't Officials

The Court recognizes that Respondent contends the problems he is experiencing not only are tolerated by the Government, but actually instigated and carried out by the Government. Moreover, the evidence does support a finding that the actions taken were on behalf of the Government. As such, the Court will find in Respondent's favor that the Government generally is both unwilling and unable to do anything about the persecution of Christians in China.

"Well-Founded Fear (Objective/Subjective)" and "More Likely Than Not"

Recognizing that Respondent has suffered some past persecution, the Court finds that there is no evidence of changed conditions or any other factor which overcomes the presumption that his persecution will continue into the future..

Discretion

Discretion is not an element of asylum relief. With regard to withholding, the Court recognizes the BIA's holding and will not consider Respondent's delay in seeking relief for the purpose of analyzing this element of relief. Moreover, the Court recognizes that discretion usually will not be exercised to deny relief which is otherwise warranted.

Order

It is ORDERED that Respondent's application for asylum under the Act is DENIED;

It is FURTHER ORDERED that Respondent's application for withholding under the Act is GRANTED;

It is FURTHER ORDERED that Respondent's application for withholding under the Convention Against Torture (CAT) is MOOT.

Both parties reserve the right to appeal this decision. The appeal is due within 30 days of this decision, which is November 16, 2013.



Immigration Judge


Date: October 17, 2013