

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Zheng v. Sessions

No. 16-120, United States Court of Appeals for the Second Circuit (May 2, 2018)

SUMMARY

The Second Circuit denied review of the BIA's adverse credibility determination that barred a Chinese Christian petitioner's claims for asylum, withholding of removal, and CAT relief. Substantial evidence supported the agency's findings that the petitioner's demeanor was rehearsed and evasive, and that his testimony and supporting documents contained material inconsistencies and omissions concerning police harassment after his release. The ruling affirms that under 8 U.S.C. § 1158(b)(1)(B)(iii), credibility may be based on demeanor and inconsistencies without regard to whether they go to the heart of the claim.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	John M. Walker, Jr.; Barrington D. Parker; Reena Raggi
JURISDICTION	Federal
DECIDED	May 2, 2018
DOCKET	16-120
DISPOSITION	other
PROCEDURAL POSTURE	Petition for review of a Board of Immigration Appeals decision affirming an Immigration Judge's denial of asylum, withholding of removal, and relief under the Convention Against Torture.
STANDARD OF REVIEW	Substantial evidence standard for factual findings; 8 U.S.C. § 1252(b)(4)(B).
PRECEDENTIAL VALUE	Unpublished
PARTIES	Hong Tong Zheng v. Jefferson B. Sessions III

TOPICS

asylum removal proceedings immigration evidence standard of review

PRACTICE AREAS

Immigration

QUESTIONS PRESENTED

1. Whether substantial evidence supports the agency's adverse credibility determination.

HOLDINGS

1. Substantial evidence supports the agency's determination that Hong Tong Zheng was not credible regarding his claims of persecution.

KEY QUOTATIONS

"Considering the totality of the circumstances, and all relevant factors, a trier of fact may base a credibility determination on the demeanor, candor, or responsiveness of the applicant or witness, . . . the consistency between the applicant's . . . written and oral statements . . . , the internal consistency of each such statement, [and] the consistency of such statements with other evidence of record . . . without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim." (2)

"A petitioner must do more than offer a plausible explanation for his inconsistent statements to secure relief; he must demonstrate that a reasonable fact-finder would be compelled to credit his testimony." (3)

FACTUAL BACKGROUND

Hong Tong Zheng, a native and citizen of China, applied for asylum, withholding of removal, and CAT relief, claiming that Chinese police detained and beat him on account of his Christianity and continued to look for him after his release. The agency found him not credible based on his demeanor, inconsistencies in his testimony, and omissions from his written statement and supporting evidence.

PROCEDURAL HISTORY

The BIA affirmed the IJ's denial of petitioner's application for asylum, withholding of removal, and CAT relief based on an adverse credibility determination. The IJ decision was dated March 11, 2014, and the BIA decision was December 31, 2015.

DISPOSITION

other

CASES CITED

- Yan Chen v. Gonzales, 417 F.3d 268 (2d Cir. 2005)
- Xiu Xia Lin v. Mukasey, 534 F.3d 162 (2d Cir. 2008)
- Majidi v. Gonzales, 430 F.3d 77 (2d Cir. 2005)
- Li Hua Lin v. U.S. Dep't of Justice, 453 F.3d 99 (2d Cir. 2006)
- Pavlova v. I.N.S., 441 F.3d 82 (2d Cir. 2006)
- Xiao Ji Chen v. U.S. Dep't of Justice, 471 F.3d 315 (2d Cir. 2006)
- Biao Yang v. Gonzales, 496 F.3d 268 (2d Cir. 2007)

- Paul v. Gonzales, 444 F.3d 148 (2d Cir. 2006)

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