

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Wu v. Garland

No. 18-3470, United States Court of Appeals for the Second Circuit (May 13, 2021)

SUMMARY

Wu v. Garland (2d Cir. 2021) addresses asylum and withholding of removal claims based on imputed political opinion. The court held that substantial evidence supported the BIA's finding that the petitioner failed to establish a nexus between his harm and a protected ground, where his opposition to corruption was motivated by personal compensation rather than a challenge to government authority. The case clarifies that opposition to corruption must "transcend mere self-protection" to constitute political opinion.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Raymond J. Lohier, Jr.; Joseph F. Bianco; Michael H. Park
JURISDICTION	Federal
DECIDED	May 13, 2021
DOCKET	18-3470
DISPOSITION	other
PROCEDURAL POSTURE	Petition for review of a Board of Immigration Appeals decision affirming an Immigration Judge's denial of asylum and withholding of removal.
STANDARD OF REVIEW	Substantial evidence for factual findings, de novo for questions of law. See 8 U.S.C. § 1252(b)(4)(B); Paloka v. Holder, 762 F.3d 191, 195 (2d Cir. 2014); Gjolaj v. Bureau of Citizenship & Immigration Servs., 468 F.3d 140, 143 (2d Cir. 2006).
PRECEDENTIAL VALUE	unpublished
PARTIES	Hongyu Wu v. Merrick B. Garland

TOPICS

removal proceedings

appellate procedure

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the agency erred in finding that Wu failed to establish a nexus between the harm he suffered and a protected ground (political opinion) for asylum and withholding of removal.

HOLDINGS

1. The agency's nexus determination was supported by substantial evidence; Wu's actions were for self-protection, not political opinion, and thus the petition for review is denied.

KEY QUOTATIONS

“Opposition to corruption may constitute a political opinion where it 'transcends mere self-protection and represents a challenge to the legitimacy or authority of the ruling regime.’” (3)

“The record reflects that Wu was targeted to cover up 'isolated, aberrational acts of greed or malfeasance' not because he was viewed as challenging government institutions.” (3-4)

FACTUAL BACKGROUND

Wu, a native and citizen of China, alleged that the police targeted him because he was planning to appeal a lawsuit he filed to obtain compensation for damage to his property. He claimed that his opposition to corruption constituted a political opinion. The agency found that his motivation was self-protection, not political opinion, and that the police action was to cover up isolated acts of greed, not a challenge to government institutions.

PROCEDURAL HISTORY

Wu applied for asylum and withholding of removal; the IJ denied the application; the BIA affirmed; Wu petitioned for review to the Second Circuit.

DISPOSITION

other

CASES CITED

- Xue Hong Yang v. U.S. Dep't of Justice, 426 F.3d 520, 522 (2d Cir. 2005)
- Paloka v. Holder, 762 F.3d 191, 195 (2d Cir. 2014)
- Gjolaj v. Bureau of Citizenship & Immigration Servs., 468 F.3d 140, 143 (2d Cir. 2006)
- Castro v. Holder, 597 F.3d 93, 100 (2d Cir. 2010)
- Matter of C-T-L-, 25 I. & N. Dec. 341, 348 (BIA 2010)
- Yueqing Zhang v. Gonzales, 426 F.3d 540, 547-48 (2d Cir. 2005)