

**Date: 20080204**

**Docket: IMM-1425-07**

**Citation: 2008 FC 132**

**Ottawa, Ontario, February 4, 2008**

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

**BETWEEN:**

**HUANG, GUOBAO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Mr. Guobao Huang says that, as a devout Christian, he fears religious persecution in the People's Republic of China. He claimed refugee protection in Canada, but a panel of the Immigration and Refugee Board dismissed his claim for a lack of credible evidence. Mr. Huang argues that the Board failed to conduct a complete analysis of his claim and asks me to order a new hearing before a different panel. I agree that the Board's analysis was incomplete and will, therefore, grant this application for judicial review.

I. Issue

[2] Did the Board fail to address the essence of Mr. Huang's claim?

## II. Analysis

### 1. Factual Background

[3] Mr. Huang explained to the Board that he joined an underground Christian church in China in 2005. He attended services on a regular basis. During a service in August 2005, a look-out alerted the congregation that the Public Security Bureau (PSB) was approaching the house where it was worshipping. Mr. Huang managed to escape and hid at a relative's home. His brother told him that the PSB had come looking for him at home. Later, he learned that the PSB had arrested two of his fellow parishioners. He decided to leave China.

### 2. The Board's Decision

[4] The Board did not believe that Mr. Huang had been a member of an underground church. The Board asked Mr. Huang to describe "in detail" the underground services he had attended. Mr. Huang, testifying through a translator, was rather short on words. He said, simply, "send out look-out, read Bible, have a discussion, sing, say prayers silently". When asked if there was anything else, he just said "Basically, that's it".

[5] The Board also asked Mr. Huang what a “Benediction” was. He seemed unsure. He used the word “Zoufou” to describe the prayer that is given at the end of the service, but when the Board asked him again about a “Benediction” he did not know what to say.

[6] The Board concluded that Mr. Huang had not really been a member of an underground church. His familiarity with Christianity could have come from attending church in Canada and acquired in order to bolster his refugee claim. In addition, the Board found it implausible that, if the PSB had really been after him, Mr. Huang would have been freely allowed to exit China using his own passport. Mr. Huang testified that he had paid an agent to bribe customs officials, but the Board doubted that he could have bribed all of the officers who could have potentially screened him at the border.

### 3. Discussion and Conclusion

[7] Mr. Huang argues that the Board’s conclusion that he was not a member of an underground church in China was not warranted on the evidence before it. Further, he submits that the Board failed to answer the real question before it; that is, whether he had shown more than a mere possibility that he would be subjected to religious persecution if sent back to China.

[8] In my view, even if the Board’s finding that Mr. Huang had not been a member of an underground church was supported by the evidence, that finding did not justify a conclusion that Mr. Huang was not entitled to refugee protection. While the Board speculated that Mr. Huang’s

general knowledge of Christianity might have been acquired in Canada in order to substantiate his refugee claim, it did not make a definitive finding that Mr. Huang was not a genuine Christian. In my view, therefore, the Board failed to consider whether Mr. Huang might encounter religious persecution if sent back to China, whether or not he had previously been a member of an underground church. (See *Chen v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 480, [2002] F.C.J. No. 647 (F.C.T.D.) (QL)).

[9] Therefore, I must allow this application for judicial review and order a new hearing. 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 allowed and a new trial is ordered.
2. No question of general importance is stated.

“James W. O’Reilly”

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Judge

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

**DOCKET:** IMM-1425-07

**STYLE OF CAUSE:** HUANG GUOBAO v. MCI

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** January 16, 2008

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

**DATED:** February 4, 2008

**APPEARANCES:**

Leonard Borenstein FOR THE APPLICANT

Kevin Lunney FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

LEWIS & ASSOCIATES FOR THE APPLICANT  
Toronto, ON

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

