

Date: 20080908

Docket: IMM-3775-07

Citation: 2008 FC 1006

Toronto, Ontario, September 8, 2008

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

**RONG HAN LIANG (a.k.a. Ronghan Liang)
CAI YIN GUAN (a.k.a. Caiyin Guan)**

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Application concerns a claim for protection by an elderly Chinese couple who state that, because they allowed Falun Gong members to practice in their home in China, and because while in Canada under valid visitor's visas they learned that the Chinese authorities had discovered this conduct and demand their return, they have subjective and objective fear or risk of persecution should they return to China.

[2] The Refugee Protection Division (RPD) dismissed the Applicants' claim on two primary grounds: "there are a number of concerns as it relates to credibility both in the inconsistency and omissions found in the claimants' testimony" (Decision p.2); and "in the panels' view, it is a case of the claimants being economic migrants" (Decision, p.3.).

[3] I agree with Counsel for the Applicants' submissions that: the negative credibility finding is unsupported by the evidence and no clear reasons are given for its making; and the economic migrant finding is unsubstantiated by evidence on the record and constitutes an extraneous consideration which is manifestly unfair to the Applicants.

[4] As a result I find that the decision is rendered in reviewable error.

ORDER

ACCORDINGLY, I set aside the decision under review and refer the matter back for re-determination before a differently constituted panel.

There is no question to certify.

“Douglas R. Campbell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: RONG HAN LIANG (a.k.a. Ronghan Liang) and CAI YIN
GUAN (a.k.a. Caiyin Guan)
v. THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 8, 2008

**REASONS FOR ORDER
AND ORDER:** CAMPBELL J.

DATED: September 8, 2008

APPEARANCES:

Ms. Vania Campana
Ms. Ada Mok

FOR THE APPLICANTS
FOR THE RESPONDENT

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FOR THE RESPONDENT