14-2868
Chen v. Lynch

BIA
Christensen, IJ
A205 030 748

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5th day of February, two thousand sixteen.

PRESENT:
ROBERT D. SACK,
PETER W. HALL,
CHRISTOPHER F. DRONEY,
Circuit Judges.

WEI CHEN,
Petitioner,

v. **14-2868**
NAC

LORETTA E. LYNCH, UNITED STATES ATTORNEY GENERAL,
Respondent.

FOR PETITIONER: Zhen Liang Li, New York, New York.

FOR RESPONDENT: Benjamin C. Mizer, Principal Deputy Assistant Attorney General; Song Park, Senior Litigation Counsel; Michele Y. F. Sarko, Attorney,

Office of Immigration Litigation,
United States Department of Justice,
Washington, D.C.

UPON DUE CONSIDERATION of this petition for review of a Board of Immigration Appeals ("BIA") decision, it is hereby ORDERED, ADJUDGED, AND DECREED that the petition for review is DENIED.

Petitioner Wei Chen, a native and citizen of the People's Republic of China, seeks review of a July 18, 2014, decision of the BIA affirming a June 11, 2013, decision of an Immigration Judge ("IJ") denying Chen's application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). *In re Wei Chen*, No. A205 030 748 (B.I.A. July 18, 2014), *aff'g* No. A205 030 748 (Immig. Ct. N.Y. City June 11, 2013). We assume the parties' familiarity with the underlying facts and procedural history in this case.

Under the circumstances of this case, we review the IJ's decision as modified by the BIA, i.e., minus the basis for denying relief that the BIA did not consider. *See Xue Hong Yang v. U.S. Dep't of Justice*, 426 F.3d 520, 522 (2d Cir. 2005). The applicable standards of review are well established. 8 U.S.C. § 1252(b)(4)(B); *Su Chun Hu v. Holder*, 579 F.3d 155, 158 (2d Cir. 2009).

Chen raised the following two claims before the IJ: (1) she suffered past persecution based on her political opinion; and (2) she has a well-founded fear of future persecution based on her religion. The IJ found that Chen failed to satisfy her burden of proof. In her brief, Chen challenges only the IJ's rejection of her claim of past political persecution. However, Chen explicitly abandoned that claim on appeal to the BIA and it is therefore unexhausted. *See Lin Zhong v. U.S. Dep't of Justice*, 480 F.3d 104, 107 n.1 (2d Cir. 2007).

For the foregoing reasons, the petition for review is DENIED. Any pending request for oral argument in this petition is DENIED in accordance with Federal Rule of Appellate Procedure 34(a)(2), and Second Circuit Local Rule 34.1(b).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk