

Federal Court



Cour fédérale

**Date: 20100311**

**Docket: IMM-2609-09**

**Citation: 2010 FC 282**

**Toronto, Ontario, March 11, 2010**

**PRESENT: The Honourable Mr. Justice Hughes**

**BETWEEN:**

**WANSU CHEN  
HAIYAN YU  
QIYAN YU**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Applicants are a mother and two of her four children, all of whom were originally from China. The Applicants, mother together with all of her children and her husband originally left China and settled in Guyana. One of the children has since left and went to Brazil.

[2] The Applicants arrived in Canada in early 2007 and claimed refugee status; the mother stated that she feared returning to China because of its one child policy. The children's claim follows that of their mother. The mother was, at the relevant time, fifty-four years old.

[3] A hearing was held and the Board released its decision dated April 22, 2009 denying the Applicants' refugee claim. It is this decision that is the subject of judicial review.

[4] In its decision the Board examined the mother's claim that she would be forcibly sterilized if she were to return to China. Her evidence was found not to be credible. The Board also examined country condition documents and found that there were no reported sterilizations in the mother's home province and that the evidence, in general, was mixed as to whether forced sterilization was practiced and if so, to whom and to what degree in China generally. Unlike the situation considered by Russell J. in *Huang v. Canada (MCI)* 2009 FC 751 the Board did not conclude that sterilization was illegal. In the present case, the Board simply concluded that the evidence was not persuasive that the Applicant would be sterilized on return to, or if she became pregnant in, China.

[5] The Board also considered whether upon return to China, the mother would have to pay a fine. The Board examined the evidence and determined that, on the balance of probabilities, the mother had already paid whatever fine would be imposed and no further fine was owed.

[6] I find the Board's conclusions in respect of sterilization and fines reasonable and should not be set aside on judicial review. There is no question for certification.

**JUDGMENT**

**FOR THE REASONS GIVEN;**

**THIS COURT ORDERS AND ADJUDGES that:**

1. The application is dismissed;
2. There is no question for certification;
3. No Order as to costs.

“Roger T. Hughes”

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Judge

**FEDERAL COURT**

**NAME OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-2609-09

**STYLE OF CAUSE:** WANSU CHEN, HAIYAN YU, QIYAN YU v. THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 11, 2010

**REASONS FOR JUDGMENT  
AND JUDGMENT:** HUGHES J.

**DATED:** MARCH 11, 2010

**APPEARANCES:**

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