

**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 17th day of January, two thousand twenty.

PRESENT:

**DENNIS JACOBS,
PETER W. HALL¹,
*Circuit Judges.***

**YUXIAN LI,
*Petitioner,***

v.

**17-3297
NAC**

**WILLIAM P. BARR, UNITED STATES
ATTORNEY GENERAL,
*Respondent.***

FOR PETITIONER: Adedayo O. Idowu, New York, NY.

FOR RESPONDENT: Joseph H. Hunt, Assistant Attorney General; Dawn S. Conrad, Senior Litigation Counsel; Matthew A. Connelly, Trial Attorney, Office of Immigration Litigation,

¹ Judge Christopher F. Droney, who was originally assigned to the panel, retired from the Court, effective January 1, 2020, prior to the resolution of this case. The remaining two members of the panel, who are in agreement, have determined the matter. See 28 U.S.C. § 46(d); 2d Cir. IOP E(b); *United States v. Desimone*, 140 F.3d 457, 458–59 (2d Cir. 1998).

United States Department of
Justice, Washington, DC.

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 Yuxian Li, a native and citizen of the People's Republic of China, seeks review of a September 28, 2017, decision of the BIA affirming a January 25, 2017, decision of an Immigration Judge ("IJ") denying Li's application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). *In re Yuxian Li*, No. A208 011 690 (B.I.A. Sep. 28, 2017), *aff'g* No. A208 011 690 (Immig. Ct. N.Y. City Jan. 25, 2017). We assume the parties' familiarity with the underlying facts and procedural history in this case.

Under the circumstances of this case, we have reviewed the IJ's decision as supplemented by the BIA. See *Yan Chen v. Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). The applicable standards of review are well established. See 8 U.S.C. § 1252(b)(4)(B); *Yanqin Weng v. Holder*, 562 F.3d 510, 513 (2d Cir. 2009).

Li became a Christian while in the United States and

1 alleged a fear of persecution in China because she would
2 continue to practice Christianity if removed. Absent past
3 persecution, an applicant may establish eligibility for
4 asylum by demonstrating a well-founded fear of future
5 persecution. 8 C.F.R. § 1208.13(b)(2). The applicant must
6 “present credible testimony that [s]he subjectively fears
7 persecution and establish that h[er] fear is objectively
8 reasonable.” *Ramsameachire v. Ashcroft*, 357 F.3d 169, 178
9 (2d Cir. 2004). To establish a well-founded fear, an
10 applicant must show either “a reasonable possibility . . .
11 she would be singled out individually for persecution” or
12 that the country of removal has a “pattern or practice” of
13 persecuting individuals similarly situated to her. 8 C.F.R.
14 § 1208.13(b)(2)(iii). Where, as here, an alien expresses a
15 fear based on activities undertaken in the United States, she
16 “must make some showing that authorities in h[er] country of
17 nationality are either aware of h[er] activities or likely to
18 become aware of h[er] activities.” *Hongsheng Leng v.*
19 *Mukasey*, 528 F.3d 135, 143 (2d Cir. 2008). In the asylum
20 context, the applicant has the burden of showing a “reasonable
21 possibility” that the authorities will become aware of the
22 activities and target her for persecution as a result. *Id.*

1 at 142-143.

2 The agency reasonably concluded that Li failed to
3 establish a reasonable possibility that she would be singled
4 out for persecution on account of her practice of
5 Christianity. See 8 C.F.R. § 1208.13(b)(2)(iii). Li
6 admitted that the Chinese government does not currently know
7 that she is a Christian. The agency reasonably concluded
8 that Li's testimony was insufficient to show that she would
9 evangelize in China, particularly as she did not specify how
10 she would do so or even how she would locate an unregistered
11 church. Furthermore, the agency's conclusion that Chinese
12 authorities were unlikely to become aware of Li's
13 Christianity was reasonable because the State Department
14 Report stated that there are an estimated 45 million
15 Protestant Christians in China not affiliated with the
16 government-sponsored church and efforts to restrict
17 participation in unregistered churches varied by region. See
18 *Hongsheng Leng*, 528 F.3d at 143.

19 For similar reasons, the agency did not err in
20 determining that Li failed to establish a pattern or practice
21 of persecution of similarly-situated individuals such that
22 officials are likely to become aware of her religious practice

1 and persecute her on that account. See *id.* The agency
2 considered the country conditions evidence and reasonably
3 concluded that it did not reflect “systemic or pervasive”
4 persecution because policies targeting Christians attending
5 unregistered churches are not implemented evenly throughout
6 China and tens of millions of individuals practice in
7 unregistered churches in China. *In re A-M-*, 23 I. & N. Dec.
8 737, 741 (BIA 2005) (recognizing that a pattern or practice
9 of persecution is the “systemic or pervasive” persecution of
10 a group). Where treatment of Christians varies by region,
11 the agency does not err by requiring evidence specific to an
12 applicant’s home region. See *Jian Hui Shao v. Mukasey*, 546
13 F.3d 138, 165-66, 174 (2d Cir. 2008) (finding that the BIA
14 does not err in requiring localized evidence of persecution
15 when the record reflected wide variances in how policies are
16 understood and enforced throughout China). As noted by the
17 IJ, the State Department Report does not refer to any
18 incidents involving Christians in Fujian, Li’s home province,
19 and the record otherwise has minimal evidence of persecution
20 of Christians in Fujian. Given the nationwide variation and
21 dearth of documented persecution in Li’s home province, the
22 agency reasonably concluded that Li failed to establish

1 a pattern or practice of persecution of Christians in China.
2 See *id.*; see also *Santoso v. Holder*, 580 F.3d 110, 112 & n.1
3 (2d Cir. 2009) (denying petition where agency considered
4 background materials and rejected pattern or practice claim);
5 *In re A-M-*, 23 I. & N. Dec. at 741.

6 Accordingly, because the agency reasonably found that Li
7 failed to demonstrate a well-founded fear of persecution as
8 needed for asylum, it did not err in finding that Li failed
9 to meet the higher standards for withholding of removal and
10 CAT relief. See *Lecaj v. Holder*, 616 F.3d 111, 119 (2d Cir.
11 2010).

12 For the foregoing reasons, the petition for review is
13 DENIED. As we have completed our review, any stay of removal
14 that the Court previously granted in this petition is VACATED,
15 and any pending motion for a stay of removal in this petition
16 is DISMISSED as moot. Any pending request for oral argument
17 in this petition is DENIED in accordance with Federal Rule of
18 Appellate Procedure 34(a)(2), and Second Circuit Local Rule
19 34.1(b).

20 FOR THE COURT:
21 Catherine O'Hagan Wolfe, Clerk of Court
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