

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 23rd day of January, two thousand twenty.

PRESENT:

BARRINGTON D. PARKER,
RAYMOND J. LOHIER, JR.,
RICHARD J. SULLIVAN,
Circuit Judges.

MINGSHENG LIU,
Petitioner,

v.

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

18-667
NAC

FOR PETITIONER: Gary J. Yerman, New York, NY.

FOR RESPONDENT: Joseph H. Hunt, Assistant Attorney General; Nancy E. Friedman, Senior Litigation Counsel; Kevin J. Conway, Trial Attorney, Office of Immigration Litigation, United States Department of Justice, Washington, DC.

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

5 Petitioner Mingsheng Liu, a native and citizen of the
6 People's Republic of China, seeks review of a February 14,
7 2018 decision of the BIA affirming a June 15, 2017 decision
8 of an Immigration Judge ("IJ") denying Liu asylum,
9 withholding of removal, and relief under the Convention
10 Against Torture ("CAT"). *In re Mingsheng Liu*, No. A202 128
11 997 (B.I.A. Feb. 14, 2018), *aff'g* No. A202 128 997 (Immig.
12 Ct. N.Y.C. June 15, 2017). We assume the parties'
13 familiarity with the underlying facts and procedural
14 history.

15 We have reviewed both the IJ's and the BIA's opinions
16 "for the sake of completeness." *Wangchuck v. Dep't of*
17 *Homeland Sec.*, 448 F.3d 524, 528 (2d Cir. 2006). The
18 applicable standards of review are well established. See
19 8 U.S.C. § 1252(b)(4)(B); *Y.C. v. Holder*, 741 F.3d 324, 332
20 (2d Cir. 2013). The agency did not err in concluding that
21 Liu failed to satisfy his burden of proving that he suffered

1 past persecution under China's family planning policy or a
2 well-founded fear of future persecution in China on account
3 of his practice of Christianity.

4 Family Planning Claim

5 Assuming that Liu was targeted for resisting the family
6 planning policy, he failed to establish that he suffered
7 persecution on account of that resistance. He did not
8 allege that the fines imposed caused him "severe economic
9 disadvantage" as required to demonstrate economic
10 persecution. *In re T-Z-*, 24 I. & N. Dec. 163, 170-75 (BIA
11 2007); *see also Huo Qiang Chen v. Holder*, 773 F.3d 396, 405-
12 06 (2d Cir. 2014); *Guan Shan Liao v. U.S. Dep't. of Justice*,
13 293 F.3d 61, 70 (2d Cir. 2002). Further, the agency did not
14 err in concluding that the family planning officials'
15 requests for Liu to report for sterilization, their attempt
16 to coerce compliance by ransacking his parents' home, and
17 the fines, each and collectively, failed to constitute
18 persecution. See 8 U.S.C. § 1101(a)(42) (providing that
19 forced sterilization under a population control program
20 constitutes persecution); *Mei Fun Wong v. Holder*, 633 F.3d
21 64, 72 (2d Cir. 2011) ("[P]ersecution is an extreme concept

1 that does not include every sort of treatment our society
2 regards as offensive.” (internal quotation marks omitted));
3 *Gui Ci Pan v. U.S. Att’y General*, 449 F.3d 408, 412-13 (2d
4 Cir. 2006) (providing that unfulfilled threats are not
5 persecution).

6 Because Liu did not demonstrate past persecution under
7 the family planning policy, he was not entitled to a
8 presumption of a well-founded fear of persecution. See
9 8 C.F.R. § 1208.13(b)(1). And Liu does not challenge the
10 agency’s determination that he failed to independently
11 demonstrate a well-founded fear of future persecution under
12 the family planning policy.

13 Religious Persecution Claim

14 Liu does not allege that he suffered past persecution
15 for his practice of Christianity. Nevertheless, absent past
16 persecution, an alien may still establish eligibility for
17 asylum by demonstrating a well-founded fear of future
18 persecution. 8 C.F.R. § 1208.13(b)(2); *Hongsheng Leng v.*
19 *Mukasey*, 528 F.3d 135, 142 (2d Cir. 2008). To do so, an
20 applicant must show either a reasonable possibility that he
21 will be singled out for persecution or that the country of

1 removal has a pattern or practice of persecuting similarly
2 situated individuals. 8 C.F.R. § 1208.13(b)(2)(iii);
3 *Hongsheng Leng*, 528 F.3d at 142. “[A]n alien must make some
4 showing that authorities in his country of nationality are
5 either aware of his activities or likely to become aware of
6 his activities.” *Hongsheng Leng*, 528 F.3d at 143.

7 The agency did not err in finding that Liu failed to
8 establish a well-founded fear of persecution because he did
9 not demonstrate that Chinese officials are aware of or
10 likely to become aware of his religious activities. Liu
11 admitted that Chinese officials do not know about his
12 religious practice. As to whether Chinese officials are
13 likely to discover his religious activities, Liu testified
14 that unspecified individuals would report him to authorities
15 for attending church. Given this limited testimony, the
16 agency did not err in finding that Liu failed to demonstrate
17 a “reasonable possibility” that Chinese officials will
18 discover his practice as required to state a fear of future
19 persecution. *Hongsheng Leng*, 528 F.3d at 143; see also *Jian*
20 *Xing Huang v. U.S. INS*, 421 F.3d 125, 129 (2d Cir. 2005)
21 (“In the absence of solid support in the record . . . [an

1 applicant's] fear is speculative at best.").

2 The agency also did not err in determining that Liu
3 failed to establish a pattern or practice of persecution of
4 similarly situated individuals. The IJ acknowledged that
5 the country conditions evidence demonstrated that the
6 Chinese government restricts religious activities and that
7 authorities harass and persecute religious practitioners in
8 some areas of China. As the IJ noted, however, the country
9 conditions evidence also provides that there are millions of
10 Christians in China who practice their religion without
11 government interference. Therefore, the agency did not err
12 in determining that Liu failed to demonstrate "systemic or
13 pervasive" persecution of similarly situated Christians
14 sufficient to demonstrate a pattern or practice of
15 persecution. *In re A-M-*, 23 I. & N. Dec. 737, 741 (BIA
16 2005); see also 8 C.F.R. § 1208.13(b)(2)(iii).

17 Liu's failure to establish either past harm rising to
18 the level of persecution or a well-founded fear of
19 persecution was dispositive of asylum, withholding of
20 removal, and CAT relief because all three claims were based
21 on the same factual predicate. See *Paul v. Gonzales*, 444
22 F.3d 148, 156-57 (2d Cir. 2006).

1 For the foregoing reasons, the petition for review is
2 DENIED. All pending motions and applications are DENIED and
3 stays VACATED.

4 FOR THE COURT:
5 Catherine O'Hagan Wolfe,
6 Clerk of Court
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