

Case Summary: Immigration Law Advisor

U.S. Department of Justice, Executive Office for Immigration Review

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Seventh Circuit: ***Tie Xia Chen v. Holder***, No. 14-2411, 2015 WL 1456591 (7th Cir. Apr. 1, 2015): The court granted a petition for review of the Board's denial of a motion to reopen removal proceedings. An Immigration Judge had denied the petitioner's applications for asylum and related relief based on findings that the petitioner's testimony was insufficiently persuasive and that his corroborative evidence was inconsistent or otherwise defective. In the motion to reopen, the petitioner attributed the inconsistencies and deficiencies in his testimony and evidence to his prior counsels' ineffectiveness. The Board had assumed that the attorneys performed ineffectively but concluded that the petitioner had not shown prejudice. Specifically, the Board noted that the petitioner had submitted documents that he knew or suspected were fraudulent and that went to the heart of his claim. Therefore, the Board reasoned that the petitioner's applications for relief would have been denied notwithstanding any other issues presented by the petitioner. The Seventh Circuit held that the Board ignored the petitioner's potentially meritorious argument. The alien had argued that his former attorneys had mishandled his case by not offering available evidence that would have resolved the deficiencies in his relief applications. The court found that the Board never considered whether the Immigration Judge would have required additional corroboration but for the failure of the petitioner's attorneys to resolve the inconsistencies in his testimony. Further, the Seventh Circuit held that the Board did not address the petitioner's other arguments pertaining to the sufficiency of his evidence apart from the suspect documents.