

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 A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1           At a stated term of the United States Court of Appeals  
2 for the Second Circuit, held at the Thurgood Marshall United  
3 States Courthouse, 40 Foley Square, in the City of New York,  
4 on the 24<sup>th</sup> day of July, two thousand thirteen.

5  
6 **PRESENT:**

7           PIERRE N. LEVAL,  
8           JOSÉ A. CABRANES,  
9           ROBERT D. SACK,  
10                   *Circuit Judges.*

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12  
13 HUI XIA WANG,  
14           *Petitioner,*

15  
16           v.

12-22  
NAC

17  
18 ERIC H. HOLDER, JR., UNITED STATES  
19 ATTORNEY GENERAL,  
20           *Respondent.*

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23 **FOR PETITIONER:**           Thomas D. Barra, New York, N.Y.

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25 **FOR RESPONDENT:**       Stuart F. Delery, Acting Assistant  
26 Attorney General; Paul Fiorino,  
27 Senior Litigation Counsel; Rebekah  
28 Nahas, Trial Attorney; Amanda Selvy,  
29 Law Clerk, Office of Immigration  
30 Litigation, Civil Division, United  
31 States Department of Justice,  
32 Washington, D.C.

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

6 Petitioner Hui Xia Wang, a native and citizen of the  
7 People's Republic of China, seeks review of a December 9,  
8 2011, decision of the BIA denying her motion to reopen. *In*  
9 *re Hui Xia Wang*, No. A088 805 012 (B.I.A. Dec. 9, 2011). We  
10 assume the parties' familiarity with the underlying facts  
11 and procedural history in this case. Because Wang did not  
12 exhaust her argument that her motion to reopen demonstrated  
13 her eligibility for relief under the Convention Against  
14 Torture, we have reviewed the denial of reopening only with  
15 respect to asylum and withholding of removal. *See Karaj v.*  
16 *Gonzales*, 462 F.3d 113, 119 (2d Cir. 2006).

17 We review the BIA's denial of a motion to reopen for  
18 abuse of discretion. *See Ali v. Gonzales*, 448 F.3d 515, 517  
19 (2d Cir. 2006) (per curiam). It is well established that  
20 the BIA may deny an alien's motion to reopen for failure to  
21 demonstrate her *prima facie* eligibility for the underlying  
22 relief sought. *See INS v. Abudu*, 485 U.S. 94, 104-05  
23 (1988). To establish eligibility for asylum and withholding

1 of removal, an applicant, like Wang, who does not rely on  
2 past persecution must demonstrate a well-founded fear and  
3 likelihood of future persecution, which requires a "showing  
4 that authorities in h[er] country of nationality are either  
5 aware of h[er] activities or likely to become aware of h[er]  
6 activities." *Hongsheng Leng v. Mukasey*, 528 F.3d 135, 143  
7 (2d Cir. 2008) (per curiam).

8 Wang argues that she demonstrated that Chinese  
9 authorities had become aware of her Falun Gong practice  
10 based on a letter from her father stating that, in order to  
11 establish Wang's eligibility for asylum, he revealed her  
12 Falun Gong activities to a local police officer, who  
13 responded that the National Security Squad would punish her  
14 if she returned to China. However, the BIA reasonably  
15 declined to credit the letter because it was: (1) not sworn  
16 or notarized; (2) implausible that her father would  
17 voluntarily expose her potentially illegal activities;  
18 (3) unsupported by the photograph Wang submitted, which only  
19 showed her father posing in front of the police station, or  
20 any other evidence; and (4) obtained specifically for  
21 removal proceedings. See *Xiao Ji Chen v. U.S. Dep't of*  
22 *Justice*, 471 F.3d 315, 342 (2d Cir. 2006); *Siewe v.*

1 *Gonzales*, 480 F.3d 160, 168-69 (2d Cir. 2007); *Matter of H-*  
2 *L-H- & Z-Y-Z-*, 25 I. & N. Dec. 209, 214-15 & n.5 (BIA 2010)  
3 (affording minimal weight to documents obtained solely for  
4 removal proceedings), *remanded on other grounds by Hui Lin*  
5 *Huang v. Holder*, 677 F.3d 130 (2d Cir. 2012). The BIA also  
6 reasonably declined to afford probative weight to the video  
7 and photographs of Wang protesting against China's  
8 repression of Falun Gong practitioners because they do not  
9 sufficiently identify Wang such that Chinese authorities  
10 could locate her in China, and are cumulative of similar  
11 photographs presented during her removal proceedings.  
12 See 8 C.F.R. § 1003.2(c)(1) (requiring that material,  
13 previously unavailable evidence support a motion to reopen);  
14 *Xiao Ji Chen*, 471 F.3d at 342.

15 Furthermore, even assuming that the police in Wang's  
16 village are aware of her activities in the United States,  
17 her father noted in his letter that the officer with whom he  
18 spoke stated that the local police were not responsible for  
19 enforcing laws against the practice of Falun Gong and that  
20 the agency charged with that task does not punish  
21 individuals who cease their practice upon returning to  
22 China. Because Wang's father did not provide her identity

1 information (i.e., identification number or address in  
2 China) to the pertinent enforcement agency and Wang did not  
3 assert that she would continue practicing Falun Gong in  
4 China, the BIA reasonably found that she failed to establish  
5 her *prima facie* eligibility for relief. See *Hongsheng Leng*,  
6 528 F.3d at 143 (explaining that applicant must demonstrate  
7 that his "putative 'persecutor'" is or will become aware of  
8 applicant's disfavored activities) (internal citation  
9 omitted). Accordingly, the BIA did not abuse its discretion  
10 in denying reopening. See *id.*; *Abudu*, 485 U.S. at 104-05.

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

19 FOR THE COURT:  
20 Catherine O'Hagan Wolfe, Clerk  
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