



# Removal Defense

## Online Course

American Immigration Lawyers Association

## Module 6: Appeals: Preparing the Record and Presenting the Case for BIA and Circuit Court

### Exercise: Preparing a Notice of Appeal with the BIA

Prepare the Statement of Reasons for Appeal for a Notice of Appeal with the Board of Immigration Appeals based on the information set forth below. Your client, Cheng Li, is appealing the decision of an Immigration Judge denying asylum, withholding of removal, and protection under the Convention Against Torture. Mr. Li will file a brief upon completion of the transcript.

Client's Name: Cheng Li, 200 000 000  
Detention Status: Not Detained  
Address: 2143 Superior Ave, Cleveland, OH 44114  
Phone: 216-266-2222  
Nationality and citizenship: Chinese  
Immigration Court: Cleveland, Ohio  
Office of Chief Counsel: ICE Office of Chief Counsel, 925 Keynote Circle, Room 201, Brooklyn Heights, Ohio 44131

#### Case Facts:

Mr. Li was denied asylum by an Immigration Judge in Cleveland, Ohio on October 29, 2019. Mr. Li started practicing his religion in China in October 2017. He is a Christian. He attended unregistered gatherings at a friend's house one time per week. Mr. Li would also occasionally pass out religious flyers in his hometown.

On December 16, 2017, Mr. Li and 8 others were at a Christian gathering at a friend's house. Two policemen stormed into the gathering and told the group that they were involved in an illegal religious gathering. Mr. Li and the other 8 practitioners were arrested. They were taken to the police station. Mr. Li was detained three days. While detained, Mr. Li was beaten on two separate occasions. On the first occasion, he was punched three times in the head and kicked



# Removal Defense

## Online Course

American Immigration Lawyers Association

ten times on the back and legs. On the second occasion, he was punched three times in the back of the head and five times in the stomach. He was told on each occasion that he must give up his religion. Mr. Li had a cut on the back of his head that required six stitches. He also had bruises on his legs, stomach and back.

Mr. Li was released from detention after he signed a promise to no longer attend the underground religious gatherings. He was told to report to the police every month. He no longer practiced his religion in China.

In February 2018, Mr. Li departed China and came to the United States where he timely filed for asylum.

The background evidence shows the problems faced by Christians in China. The situation is now even worse for Christians than when Mr. Li was there. Underground religious gatherings are not permitted under the new religious regulations and Christians face arrest, detention, physical harm and torture. Those who do not participate in religious activities not approved by authorities will be considered to have engaged in “illegal religious activities” and this carries criminal or administrative penalties. Mr. Li fears returning to China.

Mr. Li has continued practicing his religion in the United States by attending a Chinese Christian church on Sundays. He also attends Bible study every Wednesday. He has been baptized in the United States and testified he would continue practicing his religion if he returns to China.

### **Summary of the Immigration Judge’s Decision:**

The Immigration Judge denied asylum, withholding of removal and protection under the Convention Against Torture.

The Immigration Judge found that Mr. Li was a credible witness and provided reasonably available corroboration. However, the Judge did not believe that Mr. Li suffered past persecution. Specifically, the Immigration Judge found that Mr. Li’s brief detention along with his two beatings where he suffered only minor injuries would not constitute past persecution. The IJ concluded that this was not serious enough to rise to the level of past persecution. Therefore, the rebuttable presumption of future persecution was not triggered. If it had been triggered, the IJ stated he would find that the presumption has not been rebutted and grant asylum.



# Removal Defense

## Online Course

American Immigration Lawyers Association

The Immigration Judge also found that Mr. Li did not have a well-founded fear of persecution in the absence of a showing of past persecution. The IJ found that although there is religious persecution in China, it is not so widespread that there is at least a 10% chance Mr. Li will be persecuted, especially since he was never persecuted in the past and there is no indication the government is looking for him. The IJ also pointed out that Mr. Li could participate in registered Christian gatherings in China despite Mr. Li telling the court he did not want to do so because those gatherings teach only what the government approves and not true Christian religion. Based on the above findings, the IJ also denied withholding of removal and protection under the Convention Against Torture.

### **Instructions**

Use the fact pattern above to draft a Statement of Reasons for Appeal for Mr. Li.

After you upload your statement, you will be able to see a Faculty Response that includes a Statement of under 500 words (about one page). The Faculty Response will include a completed Form EOIR-26 Notice of Appeal from a Decision of an Immigration Judge, as a sample.