

United States District Court for the District of Columbia
Washington, DC 20001

Chambers of
Richard J. Teau
United States District Judge

FILED

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NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

February 24, 2006

Honorable John B. Bellinger III
Legal Adviser, Office of the Legal Adviser
United States Department of State
2201 C Street, N.W.
Washington, DC 20520

Re: *Li Weixum, et al. v. Bo Xilai*, Civil Action No. 04-0649 (RJL) (District of Columbia)

Dear Mr. Bellinger:

On April 22, 2004, Li Weixum and 3 other individual plaintiffs, each of whom is a Falun Gong practitioner, brought suit against Bo Xilai, current Minister of Commerce of the People's Republic of China ("PRC"), under the Alien Tort Claims Act ("ATCA") and the Torture Victims Protection Act ("TVPA"). A copy of the complaint is enclosed. The plaintiffs each have resided in or are currently residing in the Liao Ning Province of the People's Republic of China ("PRC") and claim that they have been subjected to various forms of persecution and abuse because of their support for Falun Gong practitioners. According to the plaintiffs, the alleged beatings and torture took place while the plaintiffs were being held in detention centers located in Liao Ning Province. The defendant, Bo Xilai, previously served as governor of the Liao Ning Province, and plaintiffs claim that Xilai supervised the detention centers and prison camps located in the province where the plaintiffs were allegedly abused and "planned and carried out a sustained and deliberate set of policies and actions that resulted in the arbitrary and unlawful arrest, detention, persecution, and in some cases execution, of the [p]laintiffs." Xilai is currently the PRC's Minister of Commerce.

Plaintiffs have brought the following causes of action under ACTA and TVPA: (1) Torture; (2) Genocide; (3) Deprivation of the Right to Live; (4) Right to Liberty and

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Security of Person and to be Free of Arbitrary Arrest and Imprisonment, (5) Freedom of Thought, Conscience and Religion, and the Freedom to Hold Opinions Without Interference and to Associate Freely; and (6) Violations of the above-cited rights and protections as embodied in customary international law. While Xilai was served on April 22, 2004, in front of the Fairmont Hotel, 2401 M Street, N.W., Washington, DC, he has not responded in any capacity to the complaint in this action. Having failed to respond to the complaint, the Court entered a default on July 28, 2004. Plaintiffs moved for Default Judgment and Declaratory Judgment on February 4, 2005. This Court denied the motions on September 27, 2005 by minute order. The motion for Default Judgment and Declaratory Judgment is enclosed.

Having reviewed the complaint, plaintiff's motion and the relevant law, the Court has determined that it would be appropriate to solicit the Department of State's opinion on a number of issues relevant to the resolution of the action. In particular, the Court would appreciate the Department of State's views on the following issues:

1. What effect, if any, will adjudication of this suit have in the foreign policy of the United States, specifically with the PRC?
2. What is the Department of State's position on the applicability of the Act of State Doctrine in this action?
3. If the Court finds that the case is justiciable, what is the Department of State's position on the application of the Foreign Sovereign Immunities Act ("FSIA") in this action?

If the Department of State believes a response to some or all of the above questions from the People's Republic of China is appropriate, it may invite the appropriate representative thereof to submit its written views to the Court as well.

The Court would greatly appreciate the Department of State's consideration of this matter and a communication from the Department of State outlaying the Department of State's views and/or positions regarding these issues. The Court leaves to your discretion whether your response is best submitted in the form of a letter or a Statement of Interest filed pursuant to 28 U.S.C. § 517. A copy of any such response should be sent to plaintiff's counsel as well. This letter in no way invites the Department of State to litigate this case on behalf of Xilai. The Court would appreciate a response by April 23, 2006.

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Thank you for your consideration of this matter and your cooperation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard J. Leon". The signature is stylized with a large, prominent "R" and "L".

Richard J. Leon
United States District Judge

Enclosures

cc: Morton Sklar, Esq., w/o enc.