

陳霞芬聽證會法官結論:商務部嚴重不公,責令恢復她的工作、補發工資福利

聯邦法官做出裁決:對華裔女科學家的“間諜”指控不成立

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在遭遇錯誤逮捕三年半後,陳霞芬(Sherry Chen)的冤屈得以昭雪!

2014年10月,由於被他人誣告為“中國間諜”,陳霞芬被政府逮捕。

2015年3月,在開庭審訊前一周,政府撤銷了對陳霞芬的所有指控。

2016年3月,陳霞芬所在的國家氣象局(National Weather Service,NWS)的上級主管部門、美國商務部(Department of Commerce,DOC)卻以相同的錯誤理由把她解雇。

2017年3月,陳霞芬向聯邦考績委員會(Merit System Protection Board,MSPB)上訴政府錯誤行為的聽證會在辛辛那提舉行。

2018年4月24日,MSPB的首席行政法官(Chief Administrative Judge)Schroeder 發佈了一份長達130頁的宣判書,指出商務部沒有正當理由解雇陳霞芬,要求商務部:

1. 恢復陳霞芬在國家氣象局的工作。
2. 給陳霞芬補發所有工資和福利。

法官認為陳霞芬是商務部的嚴重不公行為的受害者,完全駁回了商務部對她的許多指控。商務部無中生有地指責陳霞芬試圖從一個受限的政府數據庫中獲取機密信息以分享給中國的官員,並據此提出了那些無端指控。

簡言之,法官認為商務部在2014年之前對陳霞芬進行調查、和2016年解雇她的過程中都存誹謗陷害行為。比如,法官認為商務部的調查人員在撰寫對陳霞芬的調查報告過程故意忽略信息、具有偏見的做法“不可思議”(inconceivable);法官還發現商務部的官員竟然無視十幾位陳霞芬的同事宣誓提供的證言,而決定解雇陳霞芬的做法“令人不安”(troubling)。

法官還痛斥商務部固執己見,為自己的錯誤做法開脫;不是考慮做正確的事,而是更關注讓自己顯得正確。

法官判決把商務部的解雇決定修改為“最多停職15天”。法官作出這個判斷的依據是一封與商



務部的無端指控毫不相干的電子郵件。我們儘管對這一點感到失望,但是法官的判決在總體上是壓倒性地指出商務部有過失行為。

我們希望這個判決向聯邦政府發出一個強烈的信號:不要定向打擊無辜的華裔美國人!那樣的做法是錯誤的、不符合美國的價值觀,並且導致了類似于陳霞芬這樣的冤假錯案的發生。

我們也要指出,商務部也因為陳霞芬案遭受了很大的損失,因為陳霞芬本來可以在過去的4年里用她在水利方面的聰明才智為國家作出很多貢獻。她期待着回到自己的工作崗位,為國家效力。MSPB法官的判決是一個勝利的里程碑,是陳霞芬為恢復公平正義的長期維權道路上的第一步。

---- 陳霞芬維權基金會

陳霞芬感谢各界朋友的声援和支持

My dear friends,

I am deeply moved by your overwhelmed loving and encouraging messages, emails and phone calls over the last a few days since the MSPB court decision was released. Thank you so much for my heart!!!

There is no doubt that we have reached a milestone by winning this tough battle. Historically, the winning rate for MSPB cases is extremely low, less than 2%. It is not easy for us to get here. We have come a long way fighting injustice. However, as a community and a society, we have a long way to go to claim that the government has learned the lessons and this kind of tragedies will not happen again to other innocent Asian Americans. Let's keep the momentum going. More battles are ahead of us. We shall keep fighting injustice until everyone can be treated fairly and equally regardless of race, ethnicity or country origin.

I like to thank again for everyone who have helped/volunteered at various events to support me. You are my heroes!!!

corted out in handcuffs. Despite statements from leading scientists, it took the DOJ four months to concede that the schematics had nothing to do with the pocket heater. All charges were eventually dropped against Dr. Xi -but not before significant emotional and reputational damage was done.

Unfortunately, Dr. Xi and Ms. Chen are not alone. As the Philadelphia Inquirer noted on September 18, 2015, "In the last 10 months, federal prosecutors have withdrawn high-profile cases against four Chinese American scientists around the nation who had been accused of spying for China or Chinese companies." [21 A letter from a coalition of national Asian Pacific American groups also identified several cases of Asian Americans being singled out falsely for arrest and indictment. [31 We believe these recent events underscore the need for a full investigation.

We are concerned that espionage threats from foreign nations are creating a climate in which both investigators and prosecutors are rushing into indictments against Americans who happen to be minorities, calling into question civil rights protections. Otherwise innocent actions by Americans do not become suspicious simply because the person taking those actions has an ethnic surname.

As the New York Times Editorial Board wrote, "F.B.I. agents and federal prosecutors appear to have acted with reckless haste," and "[threats from China] cannot justify prosecutions driven by supposition rather than solid evidence. The charges filed against Mr. Xi and Ms. Chen traumatized them and their families and needlessly damaged their professional reputations. Nether got an explanation or an apology from the government. They deserve both."

The May 21 letter to you also requested a specific investigation into the case of Sherry Chen. The DOJ response to that letter stated: "We have received assurances from the [United States Attorney's Office for the Southern District of Ohio] and the Federal Bureau of Investigation that Ms. Chen's race played no role in the handling of her case." The purpose of the request was not for DOJ to simply ask the FBI agents and prosecutors if they believed they acted inappropriately--rather, it was for the DOJ to conduct an independent investigation into whether

race or ethnicity played a role based on interviews, documents and other evidence. driven by supposition rather than solid evidence. The charges filed against Mr. Xi and Ms. Chen traumatized them and their families and needlessly damaged their professional reputations. Nether got an explanation or an apology from the government. They deserve both."

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We, therefore, reiterate the request for a full investigation by the DOJ into the cases of Ms. Chen, Dr. Xi, and other similar cases regarding whether race or ethnicity played a role. We also request that the DOJ conduct a full investigation regarding why it appears there is a pattern and practice of minorities being singled out for arrest and indictment by federal officials.

We look forward to working with you to address these concerns and reassure the American public that our government is adequately protecting the civil rights of all Americans.

Sincerely,



其是自己在同事面前被美國聯邦調查局人員戴上手銬時,那一刻簡直不敢想象。儘管陳霞芬表示了自己受到美國商務部的不公平對待,但是她仍然期待着能夠早日回歸自己原本的生活和工作中去。

陳霞芬出生於中國,後入籍美國。在“間諜”案發生前,她是美國國家海洋和大氣管理局的水文學家,負責預測洪水。她曾因在專業領域做出突出貢獻而獲得美國政府嘉獎。

案件發生後,離開自己的工作崗位使陳霞芬萬分痛苦。她表示“我的畢生心血都在那裏,我開發的模型能準確預測洪水,被廣泛運用在各級政府、大學和私人機構上,我非常希望繼續完成這個研究。”

看到陳霞芬的經歷,許多美國民衆和華人華僑們紛紛站出來為她加油打氣。2017年北美的華人組織在街頭為陳霞芬舉行聲援抗議活動。還有不少網友在社交媒體上替陳霞芬發聲,有網友表示:我們需要正義的力量,請把她的事跡傳遞給世界!

也有網友表示:相信各國領導人們都會站在她的身邊,她在為正義而戰!

不只是普通網友,美國國會的22名醫院也曾聯名致函司法部部長,要求對陳霞芬一案是否涉及種族歧視進行調查,並要求司法部解釋在聯邦政府內部的華裔乃至亞裔僱員是否有收到任何種族或者國籍等因素的影響。

隨着美國績效系統保護委員會裁決的宣佈,也標誌着陳霞芬長達4年的抗爭終於取得了勝利。

她當日深夜獲知結果後表示,結果令人欣喜,正義終於獲勝。

隨後陳霞芬在一份聲明中稱:因為這起“錯誤的訴訟”,自己已經錯失了近四年的時間。她期待能夠重返工作崗位。

對於自己這四年來的堅持,她更是表明:“這是我個人追求正義的一個重要里程碑,也顯示了我們社區力量的強大。然而,這只是漫長征程的第一步。”

相關報道

Congress of the United States
Washington, DC 20515

November 5, 2015

Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Lynch:

We write to request an independent investigation into whether race, ethnicity or national origin played a part in recent cases in which Asian Americans have been wrongfully arrested and indicted for alleged espionage only to have those charges later dropped. Specifically, we request that you address why there appears to be an ongoing pattern and practice of people of color being singled out by federal law enforcement and prosecutors. Twenty-two Members of Congress sent you a letter on May 21, 2015, requesting such an investigation in light of the case of Naional Oceanic and Atmospheric Administration employee Sherry Chen. Since then, yet another federal case occurred of an Asian American, Dr. Xiaoxing Xi, who was wrongfully arrested and indicted for espionage.

In a response to the 22 Members of Congress sent on July 27, 2015, the Department of Justice stated that "no policy exists for using race or any other civil rights classifications to 'target federal employees for arrest, surveillance, security clearance denials or other adverse actions.'" However, the May 21 letter requested an investigation to determine whether any federal agency has a pattern or practice of using these civil rights classifications. The DOJ response letter was silent as to whether there is a pattern or practice of federal law enforcement and prosecutors singling out minorities for arrest and indictment.

Subsequent to the DOJ response, there has been a troubling new case that is similar to Subsequent to the DOJ response, there has been a troubling new case that is similar to that of Ms. Chen. The DOJ arrested and indicted Dr. Xiaoxing Xi, the chairman of Temple University's physics department, for allegedly sharing schematics for a sensitive American-made pocket heater used in superconductor research with China. FBI agents with guns drawn stormed Dr. Xi's house, and his wife and daughter watched him es-

