

Corroboration

IJ Must Give Meaningful Notice to the Applicant of Evidence that the IJ Believes to be Significant and Missing

Ming Shi Xue v. BIA, 439 F.3d 111, 122 (2d Cir. 2006)

Precedent requires that “before denying an asylum petition because of insufficient corroboration, an IJ [must give] adequate and meaningful notice to the applicant of evidence that the IJ believed was significant and missing.”

Chen v. Holder, Jr., No. 10-2434 (2d Cir. 2011)

If there is a family member who is available to provide corroborating testimony as a witness

Petitioner, a native and citizen of China, sought review of the BIA's order affirming the IJ's decision denying her application for asylum, withholding of removal, and relief under the Convention Against Torture on the basis that

her testimony regarding an alleged forced abortion was insufficient to carry her burden of proof and she failed to produce reasonably available corroborative testimony from her husband, an undocumented immigrant. The principal issue on appeal was whether substantial evidence supported the IJ's determination that petitioner failed to provide reasonably available corroborating evidence to support her claim. The court held that the IJ's determination that petitioner's testimony was insufficient by itself to meet her burden of proof was supported by substantial evidence; the IJ's determination that petitioner's husband was available to provide corroborating testimony was reasonable; and the IJ's consequent conclusion that petitioner had failed to meet her burden of proof, despite providing arguably credible testimony, was reasonable. Accordingly, the petition for review was denied.

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