

January 22, 2019

## PRESS ALERT

A Federal lawsuit was filed against the U.S. government under the Federal Tort Claims Act for the malicious prosecution and false arrest of Xiafen “Sherry” Chen in the United States District Court for the Southern District of Ohio by Michele L. Young, a local public interest lawyer and Peter Toren of Washington, D.C., a former federal prosecutor with the Computer Crime & Intellectual Property Section. He is the author of *Intellectual Property and Computer Crime*, and has represented many clients in this area and will serve as co-counsel.

“I am a loyal and hardworking American. I never could have imaged that I could become a victim of gross injustice due to misconduct by multiple government officials at different levels,” Sherry Chen said.

The injustice began with an e-mail missive by a U.S. government employee accusing Ms. Chen, “a U.S. Citizen, but a Chinese National” of being a spy on May 24, 2012. A year later, Ms. Chen was interrogated for hours and then on October 20, 2014, Ms. Chen, an adopted Midwesterner, an American citizen for close to 20 years, a hydrologist who saved lives, earning accolades and awards for her work, building and implementing a forecasting model that predicts flood across the Ohio River Valley, entered her Wilmington office at the National Weather Service and met the FBI.

A back door opened, and six FBI agents walked in and accused Ms. Chen of using a stolen password to download sensitive and secret information about our nation’s dams for a Chinese official. The password was not stolen, and no secret information was passed to a Chinese official. But the prosecution had begun and it was and is unending.

That day, arrested, placed in handcuffs and walked past her co-workers, Ms. Chen, a respected scientist, faced \$1 million dollars in fines and 25 years in prison, and branded a spy. When Ms. Chen returned to her suburban home that night, she faced television news trucks parked in front of her house, and the news traveled across the world even to her family in China. Five months later, on March 10, 2015, a week before trial, the prosecutors voluntarily dismissed all of the charges against Ms. Chen, without explanation or apology. Ms. Chen’s reputation and life were ruined as she faced crushing legal fees and the loss of her reputation and her life’s work.

Ms. Chen was then fired from her job. On April 23, 2018, the Administrative Judge who reviewed the firing, Ms, Michele Szary Schroeder, wrote a 120 page opinion stating that Commerce officials buried the evidence that would have cleared Ms. Chen and that the two officials who fired Ms. Chen were “more concerned about being right than doing the right thing.” “Based on the unyielding nature of their testimony, I would not have been surprised if they rejected that  $2 + 2 = 4$ ,” wrote the Judge as she ordered the Commerce Department to reinstate Ms. Chen, pay her back pay and legal fees.

On June 18, 2018, the Commerce Department appealed. This appeal has not been heard because of lack of judges, and Ms. Chen has never returned to the National Weather Service or to her life-long work. Ms. Chen’s ordeal has been the subject of numerous news reports and pleas from across the nation for the government to stop, including the U.S. Commission on Civil Rights, the Congressional Asian Pacific American Caucus, the New York Times, the Washington Post, the Wall Street Journal, 60 Minutes, Committee of 100, United Chinese Americans, Asian Pacific Islander American Public Affairs, Ohio Chinese American Association, and many other respected civil rights and Asian American organizations across the nation.

“An unsubstantiated and patently racist accusation set into motion a modern-day witch hunt where hundreds of thousands of our tax dollars were spent to try to prove a ‘Chinese national’ a spy with exculpatory evidence buried by government officials. We must bring justice to Sherry Chen as a matter of decency, fairness and the American way. What happened to Ms. Chen should not happen to any American ever again,” said Michele Young.

According to Peter Toren, “If the government had properly conducted the investigation from the beginning, and not acted in a malicious manner targeting a loyal and patriotic American, Sherry Chen would never have been prosecuted and her life would not have been destroyed. We are working to bring justice to Sherry and restore her life to the extent possible, and perhaps to help prevent future injustices. As a former federal prosecutor, I had expected the federal government to have acted in a more responsible and ethical fashion.”

The Sherry Chen Legal Defense Fund (<https://www.sherrychendefensefund.org/>) has compiled the following Congressional responses, community support, and English and Chinese media coverage of the Sherry Chen case in the past four years:

Congress: <https://www.sherrychendefensefund.org/congress.html>

Community: <https://www.sherrychendefensefund.org/community.html>

Media: <https://www.sherrychendefensefund.org/media.html>

Case 1:19-cv-00045-TSB complaint: <http://bit.ly/19-cv-00045>.

Biographies about the co-counselors: <https://www.sherrychendefensefund.org/legal-counselors.html>

For more information, please contact co-counsel:

Michele Young  
513-617-9152  
[michele@michelelyoung.com](mailto:michele@michelelyoung.com)

Peter Toren  
646-623-4654  
[ptoren@petertoren.com](mailto:ptoren@petertoren.com)