

Sherry Chen Case Update

June 1, 2017

As many of you know, a 2-day public hearing was held in Cincinnati on March 14 and 15 regarding Sherry's pending appeal with the Merit Systems Protection Board (MSPB) of her termination from the National Weather Service. Administrative Judge Schroeder took testimony from various witnesses and heard other evidence regarding the circumstances of Sherry's termination. The hearing was formally completed on March 28 via video conference call. The parties submitted post-hearing briefs at the end of April.

And, now, we wait for the judge's decision, which will be in writing and available to the public. However, there is no deadline for the decision and, naturally, the Judge has other cases on her docket. Our best guess is that the decision may be issued this month or next.

As revealed at the hearing, this case is more shocking than even Sherry's supporters had previously known. For example, during the criminal investigation leading to her arrest in 2014, the agency's lead agent prepared an investigation report — which was later shared with the FBI who which then arrested Sherry — that was horribly misleading. The report falsely described Sherry as having improperly accessed a government database to obtain information for an official in China, but the report failed to mention a critical interview with one of Sherry's co-workers: he had told the agents repeatedly about the job-related reasons Sherry had to access this database. Even worse, the report included typed notes of the agents' 7-hour interview with Sherry that reflected false admissions about her reasons for accessing the database. At the hearing, the agent was confronted with the handwritten notes of the interview which did not match the typed notes. When asked why the agency would try to put words in Sherry's mouth leading to her arrest, the agent had no good answers.

If this were not bad enough, in making the decision to fire Sherry the agency buried a dozen sworn statements from Sherry's former co-workers and supervisor. These statements demonstrated that Sherry had done nothing wrong accessing the database with an office username and password that was commonly shared. The agency completely ignored these statements in its termination paperwork that it gave Sherry. Instead, the agency relied on an affidavit from the very same employee who had first accused Sherry, falsely, of spying.

All of this evidence was presented at the hearing, which we believe went very well for Sherry. We remain hopeful that the judge will find that the agency lacked cause to fire Sherry and will order her immediate reinstatement. We also are hopeful that the judge will find, additionally, that the decision to fire Sherry was the result of discriminatory and retaliatory animus against her. We know how important Sherry's case is in the critical fight against ethnic profiling of Chinese-Americans.

Thank you for your continuing support of Sherry!

The Sherry Chen Legal Defense Fund