

Daily Journal

www.dailyjournal.com

VOL. 126 NO. 152

WEDNESDAY, AUGUST 7, 2013

Government must pay for asylum abuse

Two Chinese women win \$1.2M for mistreatment during application process

By Hadley Robinson
Daily Journal Staff Writer

A federal judge has awarded two Chinese women \$1.2 million, finding the U.S. government liable for the 13 years of emotional distress they suffered since a Los Angeles asylum officer made sexual advances on them and asked for bribes to approve their applications.

U.S. District Judge Consuelo B. Marshall had dismissed the civil claims, saying the officer — Thomas Powell — wasn't acting within the scope of his employment in his interactions with the two women, but was reversed at the 9th U.S. Circuit Court of Appeals in 2010 in a split decision. Marshall then held a four-day bench trial in February. *Xue Lu et al. v. Thomas Powell et al.*, CV 01-1758 (C.D. Cal., filed Feb. 23, 2001).

"Powell's conduct was done with a reckless disregard of the probability of causing emotional distress," Marshall wrote in a ruling filed Monday.

"We feel though justice has been delayed it has not been denied in this case," said Jim DeSimone, a Venice-based partner at Schonbrun DeSimone Seplov Harris Hoffman & Harrison LLP, about the 13-year saga for the two women. "Our clients feel vindicated that justice has been achieved."

Powell was convicted by a jury in 2004 of bribery and deprivation of rights and sentenced to four years in prison. He subsequently committed suicide.

A spokesperson for the Department of Justice declined comment.

The two women both fled persecution in China to seek political asylum in Los Angeles. They didn't know each other but had the same immigration attorney.

After applying for asylum in the U.S. in 2000, Powell visited Xue Lu's personal residence and kissed and groped her, while saying he had the power to approve or deny her application. He also asked for money.

Lu refused his advances, and her application was denied. She suffered a miscarriage soon after.

Following the final denial of her asylum application, Lu returned to China in 2009. She testified in Hong Kong and her videotaped testimony was played during the trial.

After Jie Hao's immigration attorney told her what happened with Lu, she agreed to help the government and went into two personal meetings with Powell wearing a wire. He asked her for \$2,000 to approve her application and repeatedly spanked her in the meeting. Powell was arrested soon after the second meeting.

Justice Department attorneys argued that because Hao had agreed to be involved in the sting operation, she had not suffered harm. But Marshall disagreed, saying Powell's behavior injured both women.

"Powell's conduct with Lu was the actual and proximate cause of the signs of PTSD, her miscarriage, and her emotional distress," Marshall wrote in his order. "Powell's conduct with Hao was the actual and proximate cause of the nearly eight-year delay in the adjudication of Hao's application and the emotional distress she experienced."

The judge found Lu entitled to damages of \$500,000 and Hao entitled to \$700,000.

hadley_robinson@dailyjournal.com