

February 27, 2018

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The Honorable Judy Chu, Chairwoman
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The Honorable Ted Lieu, Whip
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Re: Chunzai Wang and the Targeting of Chinese-American Scientists

Dear Chairwoman Chu and Members of the Congressional Asian Pacific American Caucus:

Just over a week ago, FBI Director Christopher Wray testified before Congress that he believed that Chinese-American scientists all over the United States were covertly gathering intelligence on behalf of China. Director Wray's testimony makes clear that the Department of Justice is now waging a war against Chinese-American scientists—a war driven in large part by ignorance and paranoia. And as in any war, there will, inevitably, be many innocent victims. Dr. Chunzai Wang is one of those victims: collateral damage in a recklessly waged war against Chinese-born scientists.

First, a little history is in order.

In October 2014, Sherry Chen, a highly-distinguished hydrologist at National Oceanic and Atmospheric Administration (NOAA), was arrested at her office, in front of her co-workers, and led away in hand-cuffs. The government alleged that Ms. Chen, a naturalized American citizen, had illegally accessed data at the behest of Chinese officials and that she had lied to cover up this "crime." One week before trial, the government's case collapsed, and it dismissed all charges against Ms. Chen. Nevertheless, the effects of the arrest were devastating for Ms. Chen who, despite the dismissal, lost her job and has been forced to sue in order to be reinstated.

Six months later, in 2015, Professor Xiaoxing Xi, a world-renowned physicist at Temple University was arrested in front of his wife and children by a dozen armed agents, and similarly taken away in hand-cuffs. He was accused of helping the Chinese by providing them with proprietary materials owned by a U.S. company. The charges were later dismissed after it was

established that the materials Dr. Xi sent were completely unrelated to the proprietary information.

Rather than being chastened by these experiences, the Department of Justice is still unfairly targeting Chinese-American scientists. Chunzai Wang is one of the world's foremost experts on climate change and hurricanes. A naturalized U.S. citizen, he was, by far, the most prolific and successful climate scientist at NOAA Atlantic Oceanographic and Meteorological Laboratory, and was named the NOAA Employee of the Year in 2012.

In 2016, Department of Commerce (DOC) Special Agent Andrew Lieberman—*the same agent that investigated Sherry Chen*—executed a search warrant at Dr. Wang's home and office, and, just like in Ms. Chen's case, interrogated Dr. Wang for an entire day, without counsel and without a food or water break. As a result of the search warrant, the interrogation, and the negative publicity, Dr. Wang felt compelled to resign from NOAA, a position that he loved and where he worked tirelessly for 17 years. With no other work alternative available at the time, Dr. Wang left his family in Miami and found work at the Chinese Academy of Sciences in China doing similar research regarding climate change.

Last September, as he returned to the U.S. to visit his family, the government arrested Dr. Wang at the airport. The government alleged that Dr. Wang committed time and attendance fraud when he spoke at scientific conferences in China without first notifying his supervisor, and that he illegally supplemented his income—Dr. Wang was a Guest Professor at the Ocean University of China and, while he was on annual leave, was paid a small fee per diem for mentoring students and helping them with their research.

On the brink of trial, the government offered Dr. Wang a deal: a plea to a single count of supplementation of income from Changjiang Scholars Program, with a sentence of “time served” (he spent one night in custody when he was arrested); no probation, no fine, no restitution; and, most significantly, no crushingly expensive three-week long trial which he could only have afforded by borrowing from his elderly parents and other family in China. The plea meant that Dr. Wang could protect his family from the debilitating stress and immediately return to China and resume his research.

The presiding judge, Cecilia Altonaga, made clear her displeasure with this prosecution. After hearing the facts of the government's case, the judge stated that her “only regret . . . is that I have to adjudicate [Dr.] Wang.” The judge went on to observe that while she knew “the Government has dismissed a number of counts in the indictment in exchange for the plea to Count 6, [] *given the nature of [Dr.] Wang's contributions to an area that is at the forefront of our daily review of news, climate change, given the nature of the research he conducts and—and the information he supplies and how valuable it is to all of us, certainly he made mistakes here, but it's regrettable*

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that it could not have been taken care of, I think, by some type of pretrial diversion so that he would not be an adjudicated felon.”

In my 33 year career—22 spent as a prosecutor, the past 11 as a defense attorney—I have never heard a judge similarly chastise the government for bringing a case that, in the court’s view, so clearly lacked merit. Nevertheless, the court accepted the guilty plea and sentenced Dr. Wang to time-served—the one day he spent in jail at the time of his arrest. He was to pay no fine, no restitution and serve no probationary sentence. Instead, he was to go back to China to work.

Despite the court’s admonishment the case against Dr. Wang should never have been brought in the first place; the government – after previously representing that it would not issue any press release regarding Dr. Wang’s disposition – nevertheless issued a false and misleading press release “touting” their conviction of Dr. Wang. This press release violated DOJ policy by referencing unproven allegations that the Court dismissed as if they were established facts.

Had the government wanted to inform the public of the unproven allegations contained in the Indictment, it was required to state that the charges were merely accusations, and that Dr. Wang was, and remains, presumed innocent of those dismissed charges.

There can be only one reason to issue a false and misleading press release: not satisfied with making Dr. Wang unemployable in the U.S., the government now seeks to vindictively impact his job prospects in China. It should disturb all Americans who believe in the rule of law that the Department of Justice violated its own policies to smear Dr. Wang in order to extract an extra-judicial penalty in a case that the Court believed should never have been brought.

Dr. Wang was unfairly targeted and victimized by his own government, a fact recognized by the judge in his case. He is collateral damage in the United States government’s campaign against Chinese-American scientists. Unfortunately, he will not be the last.

Sincerely,

Peter Zeidenberg

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