

Xinjiang Uyghur Autonomous Region Urumqi City Intermediate People's Court

Criminal Ruling

(2014) URC Inter. Crim. C1 Fin. No. 17

Original public prosecuting body: Urumqi City Saybagh District People's Procuratorate.

The appellant (defendant in the original trial): Luo Chuanmei, female, Han, born on November 9, 1956 in Urumqi, Xinjiang, with a high school education, no fixed occupation, residing at Apt. 202, Entrance No. 2, Building No. 45, 4 North Friendly Road, Urumqi. Criminally detained in connection with this case on January 10, 2013, and formally arrested on February 7 of the same year. Currently being held at the Urumqi City Shuimogou Pre-Trial Detention Center.

The Urumqi City Saybagh District People's Court heard the case in which the Urumqi City Saybagh District People's Procuratorate filed a public prosecution against the defendant Luo Chuanmei for the crime of using heterodox groups to undermine law enforcement, and on December 12, 2013 issued the (2013) Say. Crim. Init. No. 642 criminal judgment. The defendant in the original trial, Luo Chuanmei, refused to accept the judgment and filed an appeal with this court. After accepting the case, this court formed a collegiate bench in accordance with the law and publicly heard this case on January 27, 2014. Acting Procurator Zhu Guangsheng of the Urumqi City People's Procuratorate appeared in court to perform his duties. The trial has now concluded.

The original judgment determined that: At around 5 AM on January 10, 2013, the defendant Luo Chuanmei left her home carrying a red cloth bag, intending to go out and propagate the "Falun Gong" heterodox religion. When she reached the vicinity of the BRT station beside the "Baodi Hotel" on Urumqi's Friendly Road, she encountered Jia XX (handled in a separate case), whom she knew. The defendant Luo Chuanmei said that there was "a place that distorted the Dafa" and that she was going to do something about it, and asked Jia XX to go with her. After Jia XX agreed, the two walked together from Friendly Road to a wall at 75 Baoshan Road (a former Chinese medicine factory), where the defendant Luo Chuanmei had Jia XX keep watch while she took out a seal and an ink pad from her bag and stamped five heterodox-religion slogans on the public display wall, reading "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety". The two then walked to the side of the Peace Canal on October Street's West Back Road, where the defendant Luo Chuanmei placed two copies of the "Nine Commentaries on the Communist Party" booklet, four copies of propaganda flyers titled "The Three Withdrawals and Safety", and one copy of the "Clear Wisdom Weekly" magazine on the front windshields of five sedans parked by the roadside. At around 7 AM, the two continued to walk to the front gate of the Red October Residential Complex on Yangzijiang Road, where the defendant Luo Chuanmei promoted "Falun Gong" to passerby Zhang XX, gave Zhang a disc of "firewall-circumvention software series" and two copies of "Clear Wisdom Weekly", and encouraged Zhang XX to log into a "Falun Gong" website. Zhang XX immediately reported it to the police. At around 7:30 AM that same day, public security personnel detained the defendant Luo Chuanmei and Jia XX near the No. 22 Primary School on Yangzijiang Road, seizing at the scene one seal bearing the words "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety", one ink pad, one small brush, and three "firewall-circumvention software series" discs from the red cloth bag carried by Luo Chuanmei. In addition, on August 10, 2012, public security personnel had discovered a heterodox-religion slogan on the corridor wall of Floor No. 1, Entrance No. 2, Building No. 5, Hongyun Residential Complex, 221 North Friendly Road, Urumqi (with the content "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety"). Subsequent appraisal determined that the five slogans on the public display wall at 75 Baoshan Road and the heterodox-religion slogan on the corridor wall of Floor No.

1, Entrance No. 2, Building No. 5, Hongyun Residential Complex, 221 North Friendly Road were identical, and were all stamped using the seal possessed by Luo Chuanmei.

It was also established that, on November 2, 2006, the defendant Luo Chuanmei had been sentenced by the Urumqi City Intermediate People's Court to a fixed-term imprisonment of three years and one year of deprivation of political rights for the crime of subversion of state power. She was released upon completion of her sentence on March 7, 2009.

The court of original trial held that the defendant Luo Chuanmei, knowing full well that "Falun Gong" is a heterodox organization subject to severe crackdown by the state, and for the purpose of propagating "Falun Gong", promoted a heterodox religion by means of spraying slogans in public places, with the social impact serious; her actions constitute the crime of using heterodox groups to undermine law enforcement. In accordance with the provisions of Article 300, Paragraph 1, Article 25, Paragraph 1, and Article 64 of the "Criminal Law of the People's Republic of China", the judgment was as follows: 1. The defendant Luo Chuanmei has committed the crime of using heterodox groups to undermine law enforcement, and is sentenced to a fixed-term imprisonment of five years; 2. The one seal, one ink pad, one small brush, and three CDs of "firewall-circumvention software series" that were seized are to be confiscated.

After the original judgment was pronounced, the defendant in the original trial, Luo Chuanmei, refused to accept it and appealed to this court on the grounds that Falun Gong is not a heterodox religion and that her actions do not constitute a crime, requesting that this court declare her not guilty.

Following judicial examination, it was ascertained that the facts established by the original judgment were true. These facts are corroborated by the following evidence, which has been examined and cross-examined in court:

1. The testimony of the witness Jia XX, which confirms that: In the early morning of January 10, 2013, before daybreak, she left home to take a walk around. When she reached the ground level area of the Baodi Hotel, she ran into Luo Chuanmei. Luo Chuanmei said that there was content slandering Dafa on a wall somewhere and asked that they go to erase it together. She and Luo Chuanmei then walked from Friendly [Road] to the wall at 75 Baoshan Road. Luo Chuanmei told her to keep watch, during which time she couldn't tell if Luo Chuanmei was posting something, tearing something down, or stamping something on that wall. After a while, they continued walking forward. When they reached the side of the Peace Canal, Luo Chuanmei placed something on the windshields of two or three cars parked by the roadside, but she did not see clearly what it was. When they got near Yangzijiang Road, Luo Chuanmei distributed things to passersby, while she stood on the side of the road with her back toward Luo Chuanmei, keeping a lookout for her. Later, when they reached the area near the traffic light at Nianzigou, a police car arrived and took them to the police station. At the police station, she saw that inside the red cloth bag carried by Luo Chuanmei there were several CDs and one long stamp.

2. The testimony and identification records of the witness Zhang XX, which confirm that: At about 6:47 on January 10, 2013, he took a coach bus from Dorbilzhin to Urumqi and walked from the Nianzigou passenger transport station to the vicinity of the main gate of the Red October Garden Residential Complex on Yangzijiang Road, where he encountered two elderly women. One of them, a somewhat younger woman, struck up a conversation with him, asked him whether he used the internet, gave him a CD, and said that the Communist Party did not allow the practice of "Falun Gong", telling him to go home and take a good look at the CD, after which she gave him an additional two leaflets. Afterwards, he felt that something was wrong, so he called 110 to report it to the police. The police officers detained the two women. He also identified the defendant Luo Chuanmei as the somewhat younger woman who had given him the CD.

3. The testimony of the witness Yang XX, which confirms that: He is a patrol officer of the Baoshan Neighborhood. At about 10:20 on January 10, 2013, while he and patrol officers Li X, Xu XX, and NurXX were patrolling near the public display wall beside the Chinese medicine factory on Baoshan Road, they discovered that four public display walls with anti-heterodox religion content had all been smeared with black ink, and that there were also blue-black reactionary slogans nearby, reading "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety". They proceeded to immediately secure the scene to collect evidence, and reported to their leader(s) at the first opportunity.

4. The testimony of the witness Zhang X, which confirms that: He was a staff member of the housing management office of the Red October Neighborhood. At about 10:30 on January 10, 2013, when he walked to the doorway of the office of the judicial police substation on October Road, he saw a white transparent plastic bag on the front windshield of a private car that was on the other side, next to the Peace Canal. He took the bag back to the office and, upon examining it, found that it contained propaganda flyers of the "Falun Gong" heterodox religion. After reporting this to the subdistrict People's police, he went out to inspect again and found two more propaganda flyers and two CDs on the front windshields of five cars parked by the Peace Canal. The flyers were printed in color, with the titles "The Three Withdrawals and Safety" and "The Choice in Carrying Out Orders". Printed on the CDs were the words "Nine Commentaries on the Communist Party".

5. The testimony of the witness Zhang XX, which confirms that: He is the manager of XX Company in the Hongyun Residential Complex. At approximately 18:30 on August 10, 2012, during an inspection, he discovered heterodox-religion slogans stamped in blue ink on the wall on Floor No. 1, Entrance No. 2, Building No. 5, Hongyun Residential Complex, 221 North Friendly Road, on the right side just past the entrance. They said "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety".

6. The on-site inspection record and photographs, which confirm that: On January 10, 2013, upon inspection, it was found that there were five reactionary slogans on the outer perimeter wall of the Chinese medicine factory on Baoshan Road in Urumqi; the reactionary slogans appeared to be blue stamped characters, written vertically, with the content "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety", totaling thirteen characters.

On August 10, 2012, upon inspection, it was found that there was blue handwritten text, suspected to have been left by fingerprint impression, at a height of about 1.6 meters on the wall on the west side of the stairwell on Floor No. 1, Entrance No. 2, Building No. 5, Hongyun Residential Complex, North Friendly Road, Urumqi. The handwritten text was written vertically, with the content reading "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety", totaling thirteen characters.

7. The criminal science and technology appraisal report, the (2013) PS DS URC Doc. Exam. No. 019 document examination and appraisal, issued by the Urumqi Forensic Document Examination Center of the Domestic Security Protection Bureau of the Ministry of Public Security, which confirms that: The inscriptions recovered from the outer perimeter wall of the Chinese medicine factory on Baoshan Road and from the wall on the west side of the stairwell on Floor No. 1, Entrance No. 2, Building No. 5, Hongyun Residential Complex, North Friendly Road in Urumqi, reading "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety", were stamped using a seal possessed by the defendant Luo Chuanmei.

8. The documentary evidence and list of seized items, which confirm that: On January 10, 2013, public security personnel discovered and seized from the red cloth bag carried by the defendant Luo Chuanmei one seal bearing the content "Heaven will destroy the CCP heterodox religion; withdrawing from the Party, League, and Pioneers ensures safety", one brush, one ink container, two "Nine Commentaries on

the Communist Party" CDs, and three CDs of the "Free Network Alliance" firewall-circumvention software series.

9. The detainment process issued by the public security organs, which confirms that: At approximately 7:30 AM on January 10, 2013, public security personnel, based on the identification by the reporting person Zhang XX, detained the defendant Luo Chuanmei on the sidewalk next to the No. 22 Primary School on Changjiang Road in Urumqi.

10. The criminal verdict and release certificate, which confirm the appellant Luo Chuanmei's prior criminal record.

11. The appellant Luo Chuanmei's population registration information, which confirms the identity of the defendant.

This court holds that the appellant Luo Chuanmei knew full well that "Falun Gong" is a heterodox organization subject to severe crackdown by the state, and had previously received criminal punishment for this, yet this time again propagated the "Falun Gong" heterodox religion in a public place by spraying slogans and distributing heterodox-religion propaganda items, causing a vile social impact; her actions constitute the crime of using heterodox groups to undermine law enforcement. Moreover, after being brought to justice, she still remained obstinate and unrepentant, and should be punished. The Criminal Law of our country and the relevant judicial interpretations provide that whoever organizes and uses secret societies or heterodox groups, or uses superstition, to undermine the enforcement of national laws and regulations shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years. The appellant Luo Chuanmei had previously been sentenced to criminal punishment after committing a crime, and has committed another offense within five years after completion of the execution of her sentence, which constitutes recidivism and warrants a heavier punishment. The court of original trial established the facts clearly, determined the nature of the offense accurately, imposed an appropriate sentence, and followed lawful trial procedures. Its judgment should be upheld. The appellant's grounds for appeal cannot be sustained, and this court does not accept them. In accordance with the provisions of Article 225, Paragraph 1, Item (1) of the "Criminal Procedure Law of the People's Republic of China", the ruling is as follows:

The appeal is dismissed, and the original judgment is upheld.

This ruling is final.

Presiding judge
Judge
Acting judge
January 28, 2014
Clerk

Yin Jun
Gao Feng
Tong Shuli

Wen Jun