

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
525 W. VAN BUREN, SUITE 500
CHICAGO, IL 60607

Grossman Law, LLC
Grossman, Sandra Andrea
4922 Fairmont Avenue
Suite 200
Bethesda, MD 20814

Date: Mar 24, 2017

File A

In the Matter of:
YEE, AMOS PANG SANG

____ Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____. The appeal must be accompanied by proof of paid fee (\$110.00).

____ Enclosed is a copy of the oral decision.

____ Enclosed is a transcript of the testimony of record.

____ You are granted until _____ to submit a brief to this office in support of your appeal.

____ Opposing counsel is granted until _____ to submit a brief in opposition to the appeal.

Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,



Immigration Court Clerk

UL

cc: ELIZABETH CRITES, DHS/ASST. CHIEF COUNSEL
525 WEST VAN BUREN, 701
CHICAGO, IL 60607

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
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CHICAGO, ILLINOIS

File #: A

Date: March 24, 2017

In the Matter of:

Amos Pang Sang Yee,

Applicant.

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IN ASYLUM-ONLY PROCEEDINGS

APPLICATIONS: Section 208 of the INA, 8 U.S.C. § 1158 – Asylum.

Section 241(b)(3) of the INA, 8 U.S.C. § 1231(b)(3) – Withholding of Removal.

8 C.F.R. § 1208.16(c) – Withholding of Removal under the United Nations Convention Against Torture.

ON BEHALF OF THE APPLICANT:

Sandra Andrea Grossman
Christopher Keillor
Grossman Law, L.L.C.
4922 Fairmont Avenue, Suite 200
Bethesda, Maryland 20814

ON BEHALF OF THE GOVERNMENT:

Elizabeth Crites
Elizabeth Treacy
Assistant Chief Counsels
Department of Homeland Security
525 West Van Buren Street, Suite 701
Chicago, Illinois 60607

DECISION OF THE IMMIGRATION JUDGE

Amos Pang Sang Yee seeks asylum from his native Singapore. Yee is an 18-year-old citizen of Singapore who was first jailed there in 2015 after posting a YouTube video harshly critical of the country's former prime minister Lee Kuan Yew. Singapore prosecuted Yee under the guise of its laws prohibiting insulting religion and obscenity. After serving jail sentences in 2015 and then in 2016, Yee flew to the United States in December 2016 under the visa waiver program. Upon arrival, he expressed a fear of returning to Singapore. Exh. 2, Tab C. Six weeks later, Yee requested asylum at his first appearance before an immigration judge, and his asylum hearing took place in March 2017.

As explained below, the evidence presented at the hearing demonstrates Singapore's prosecution of Yee was a pretext to silence his political opinions critical of the Singapore government. His prosecution, detention and general maltreatment at the hands of the Singapore authorities constitute persecution on account of Yee's political opinions. Yee is a young political dissident, and his application for asylum is granted.

I. FACTS AND RELEVANT EVIDENCE

A. Human Rights Abuses in Singapore

Singapore is a democracy essentially controlled by one party, called the People's Action Party (PAP). The PAP is led by Prime Minister Lee Hsien Long. Before him, Long's father Lee Kuan Yew led the country as prime minister. Exh. 5, Tab F, at 184. Former Prime Minister Lee Kuan Yew is credited as the founder of Singapore. He died in March 2015, and the country observed one week of national mourning. Exh. 7, Tab M1 at 294.

Yew imposed severe restrictions on freedom of speech and targeted his political opponents through the judiciary, using defamation suits and other means. Exh. 7, Tab M1 at 294. These restrictions have continued during his son Lee Hsien Long's rule as prime minister. Exh. 5, Tab G2 at 222. Singapore is considered "partly free" by Freedom House. Exh. 5, Tab G1 at 217. The World Press Freedom Index ranks it near the bottom at 153 out of 180 countries. Exh. 5, Tab E5 at 179.

The PAP party controls 93% of the seats in the parliament and won 70% of the popular vote in the last election. Exh. 5, Tab G1 at 217. Though the election was contested, the PAP maintained its advantage largely by its control over Singapore's traditional media. *Id.* Presently, "all seven domestic TV channels are under governmental control, and it is illegal to own a satellite dish." Exh. 5, Tab E5 at 179. In addition, PAP redraws district boundaries to boost its support and to reduce the influence of any opposition parties. Exh. 5, Tab G1 at 218. PAP also targets opposition leaders directly by selectively enforcing an arsenal of laws intended to intimidate and stifle dissenting voices, such as sedition, defamation, and "wounding religious feelings." Exh. 5, Tab G1 at 217. Outcomes in civil suits ultimately "raise questions about judicial independence, particularly because lawsuits against government opponents often drive them into bankruptcy." *Id.* at 220.

The government now regulates online media as well through the Media Development Authority (MDA). *Id.* at 219. The MDA monitors online content and has the authority to order certain posts removed if the post impugns the government's interests or offends "good taste or decency." Exh. 5, Tab G3 at 226. Social media users posting about political issues may be prosecuted under a variety of laws ostensibly justified by the government's interest in protecting public order, morality, security, and racial and religious harmony. Exh. 5, Tab G3. As Freedom House notes, "the government maintains that racial sensitivities and the threat of terrorism justify draconian restrictions on freedoms of speech, but such rules have been used to silence criticism of the authorities." Exh. 5, Tab G1 at 219. Such laws include the Sedition Act, which "outlaws seditious speech, the distribution of seditious materials, and acts with 'seditious tendency.'" *Id.* Another law called the Administration of Justice (Protection) Act includes one provision that makes "scandalizing the judiciary" an offense. Exh. 5, Tab G2 at 223. This law has been used to "penalize anyone who dared criticize the judiciary or judicial decisions." *Id.*

Prime Minister Lee Hsien Long has increased restrictions on speech. According to Human Rights Watch, he "is imposing a mix of absolute political control and repression of

dissenting voices” as his father did. Exh. 5, Tab G2 at 222. Examples of these restrictions include the investigations and arrests of social media bloggers Roy Ngreng and Teo Soh Lung in May 2006 after they allegedly violated the country’s election laws by making posts on their personal websites during the country’s “cooling off” period, a time immediately before the national elections when citizens are prohibited from making political posts on social media. *Id.* Additionally, the founders of an online news portal called *The Real Singapore* were recently sentenced to prison in 2006 for ten months after they pled guilty to sedition for “publishing articles with allegedly anti-foreign content.” Exh. 5, Tab G2 at 223. One of the founders, Australian citizen Ai Takagi, was sentenced to ten months’ incarceration even though she was pregnant. Exh. 5, Tab H3 at 237.

B. Testimony of Amos Sang Pang Yee

Amos Yee is a blogger with approximately 54,000 followers on YouTube, 43,000 followers on Facebook, and 8,000 followers on Twitter. The revenue from his YouTube channel was previously Yee’s sole means of support. *See* Exh. 5, Tab B6 at 29. The Singapore government prosecuted Yee in 2015 and then again in 2016. Yee testified that he believes that the main reason he was prosecuted was for his criticisms of the Singapore government rather than his criticisms of religion. If the government charged him explicitly for his political criticisms, people would know he is the “biggest political threat” in Singapore and would be curious about his posts. If returned to Singapore, Yee believes that he would be jailed and eventually sent to a “rehabilitative training program.”

1. Yee’s First Prosecution

Yee’s first prosecution followed a YouTube video he posted that was harshly critical of the Singapore regime. Yee posted the video, called “Lee Kuan Yew is Finally Dead,” immediately after Lee Kuan Yew died in March 2015 and during the week of national mourning. At the time, Yee was 16 years old. Yee testified at his asylum hearing that he believed that the former leader of Singapore was “absolutely awful,” and he felt a moral obligation to “spread the truth.” Yee made the video to show his fellow Singaporeans not to be afraid and to “stand up against these tyrants.”

The video, which now has close to two million views, generated an uproar in Singapore at the time of its posting. In the video, which is excerpted in more detail below, Yee called former Primer Minister Yew a “dictator” who controlled the mainstream media and silenced his opponents by arresting them. Yee said that the former leader “fooled” the international community into thinking Singapore was a democratic country when it was really an authoritarian one. During a small segment of the video, Yee also compared Lee Kuan Yew to Jesus, stating that Jesus was “power hungry and malicious.” He similarly stated that Jesus was full of “bull.” According to Yee (and other witnesses – as noted below), people in Singapore were “pissed” after the video’s release.

Around the same time, Yee also uploaded a line drawing entitled “Lee Kuan Yew ButtF***ing Margaret Thatcher.” *See* Exh. 13. The drawing had the heads of the two former leaders superimposed onto line-drawn figures. *Id.* Yee said that he made this image in response

to Margaret Thatcher's comments that Lee Kuan Yew was "never wrong." He created the image to make fun of the quotation, and to "liberate people from fear" of Lee Kuan Yew because if they see him "buttf**ing Margaret Thatcher, [they] won't be so scared anymore."

For these postings, Singapore authorities charged Yee in 2015 with wounding religious feelings and obscenity. Yee opted for jail in lieu of probation. According to Yee, he thought incarceration was a better option because he was afraid that he would violate the terms of his probation by posting something online, which he feared would result in a longer jail sentence.

The terms of Yee's pre-trial release prohibited him from posting any content online because, according to Yee, they "didn't want [him] to post anything online to stimulate the ill-will sentiments against the Singapore government." Yee refused to comply with these conditions, and he was arrested again. Eventually, Yee was convicted and sentenced to four weeks in jail, serving a total of 55 days, including two weeks in a mental health institution. He also served fourteen days in home detention.

Yee testified at length about conditions at the adult mental health institute where he was housed, which he described as "absolutely awful." The mental patients kept screaming, so Yee could not sleep. In addition, he believed that the food was "medicated" because it smelled like medicine. Yee was 16 years old at this time, but the other individuals confined at the facility were adults.

Yee serve his prison sentence at the Changi Prison. This was an adult prison and "was also very horrible." Still, it was slightly better than the mental health institute because he was able to get a few books a week from his parents.

2. Yee's Second Prosecution

Yee's first prosecution did not dissuade him from antagonizing the Singapore government. Just a few months later, Yee was again charged with wounding religious feelings and other crimes for making derogatory posts targeting Islam and Christianity. (According to Yee, he is an atheist who sought to criticize religion with satire and mockery.) He was eventually sentenced to six weeks' incarceration.

C. Testimony of

testified as an expert on freedom of expression and assembly in Singapore and also testified about Yee specifically. is a lawyer who has served as the for the past three years, specializing in issues of freedom of expression and assembly.

For analyzes laws relating to freedom of speech and assembly in Asia and evaluates their consistency. She also follows prosecutions under those laws and responds to them when appropriate. She also writes a series of country reports on her research.

As part of her research, [redacted] travels throughout Asia to interview lawyers, activists, academics, and persons who have been subject to prosecution. Her current report on Singapore analyzes both the criminal and non-criminal avenues the government uses to suppress free speech and assembly. She has conducted research on the ground in Singapore. [redacted] is familiar with Yee's case, following it through Yee's blog posts and the legal documents and opinions of the judges connected with it. She has also interviewed Yee.

[redacted] testified that while Singapore's constitution technically recognizes freedom of speech, this freedom is subject to restrictions the government deems necessary. The Singapore government uses a range of criminal and regulatory provisions to restrict speech, including the law on wounding religious feelings and sedition, defamation and contempt charges, and regulations on assembly. Many of these laws are overly broad and vague. She is unaware of a case where an individual was openly criminally prosecuted for political speech, but the effect of these laws is to intimidate those who might otherwise speak out against the government.

The mainstream media is in the control of the Singapore government and the internet is the only space where individuals may speak freely. Social media remains one of the few venues for dissidents to speak out, as Singapore regulations have made it very difficult to hold a public protest, publish in the mainstream media, or speak on a public issue. Recognizing the threat from social media, the government has enacted legislation to constrain it. These restrictions include an attempt to regulate websites published outside of Singapore and control the information coming into the country from foreign sources. The government likewise monitors the Internet for any publications or content that it considers problematic.

According to [redacted] several people have been scrutinized by the Singapore government under its freedom of speech regulations. One was prosecuted for criminal contempt for publishing a book on the handling of a case challenging Singapore's anti-sodomy laws. In addition, Roy Ngrenge was subjected to a civil defamation charge for suggesting that the government was corrupt. Ngrenge was also harassed and intimidated after he allegedly violated the country's "cooling off" laws. In reality, Ngrenge's post was non-political and made on his personal page. Still, the government raided his house and seized his electronics.

Regarding Yee, [redacted] explained that the video he posted critical of Lee Kuan Yew created a negative response in Singapore, in part because Yee posted it three days into the mourning period following Yew's death. The video was met with an outpouring of criticism. The bulk of the video and the entirety of the negative response it generated was about the video's criticism of Yew. Still, a small portion of the video (approximately 30 seconds in a video over eight minutes in length) compares Lee Kuan Yew to Jesus, lambasting both figures. [redacted] said that the charge against Yee was the government's attempt to hide its efforts in "going after" someone for criticizing the government directly.

[redacted] explained that the Singapore government has used this tactic in other cases. One example is cartoonist Leslie Chu, who was prosecuted for contempt after being threatened with sedition charges for his satirical and critical cartoons. According to [redacted], the law against wounding religious feelings is easy to prove and frequently gets used to silence government

critics. [redacted] argues that such laws are easily abused as a means of stifling dissent. In Yee's case, [redacted] believes the prosecution was directed at the political context of Yee's speech, not the religious criticisms. [redacted] also explained that Yee's conditions of pre-trial release were extraordinary, as it is not normal to impose a complete ban from social media on a defendant as a condition of bail.

Regarding the "obscene" line drawing, [redacted] testified that she does not believe it to be reasonable that the average person in Singapore would find the image obscene, though it is "incredibly insulting" to Lee Kuan Yew.

[redacted] explained that Yee was targeted because he posted prolifically and had a large following. The Singapore government has a range of tools it uses to control its population, including housing and employment. Thus, if it seeks to constrain social media, it focuses on those with a large following, such as Yee. Ultimately, Yee's speech is considered subversive, and it was on that basis that he was prosecuted. Were he to return to Singapore, she believes he would likely be subject to more prosecution as he is a controversial figure that the government is watching him.

D. Kenneth Jeyaretnam, Leader of an Opposition Political Party in Singapore

Kenneth Jeyaretnam is the leader of an opposition political party in Singapore called the Reform Party and also testified on Yee's behalf. Jeyaretnam has led the party in two elections and one by-election. Jeyaretnam states that most Singaporeans are familiar with Yee as the "boy who criticized Lee Kuan Yew." When Yee's video "Lee Kuan Yew is Finally Dead" was posted, the public was incredulous about Yee's attack on the founding father of Singapore. Jeyaretnam believes the prosecutions against Yee were meant to punish and silence his political speech, not because of his comments about religion. Jeyaretnam explained that others in Singapore have made similarly offensive comments regarding religion and have not been investigated or prosecuted, including Lee Kuan Yew himself. Another example is Jason Neo, who was investigated after he publicly disparaged Muslims online but was never prosecuted, likely because Neo was previously a youth leader in the PAP.

Jeyaretnam testified that the prosecution of Yee for obscenity is selective, as there is more offensive material posted online than Yee's picture. Jeyaretnam also testified that Yee's sentence was unusually harsh.

E. Documentary Evidence

Exhibit 1-13 were all admitted in evidence, except for Exhibit 5, D2. Even if not specifically discussed, the court has considered all of the documentary evidence in the record.

II. FINDINGS AND ANALYSIS

A. Credible and Corroborated

Based on his testimony and the information in the record, the court finds Yee and his two witnesses to be credible.¹ Having reviewed Yee's testimony, the testimony of his supporting witnesses, and the documentary evidence in the record, the court finds that the witnesses' testimony was generally consistent both internally and when compared to other evidence in the record. Yee also provided extensive supporting evidence to further corroborate his claim. *See* Exh. 5, Tabs A–H and Exh. 7, Tabs L–O. The court thus finds Yee and his witnesses to be credible and Yee's claim adequately corroborated.

B. Yee is Entitled to Asylum

Amos Yee has established that he suffered past persecution on account of his political opinion, and DHS has not rebutted the presumption that he has a well-founded fear of future persecution on the same basis. Accordingly, Yee qualifies as a political refugee and is entitled to asylum.²

1. Legal Framework

The asylum applicant carries the burden of establishing statutory eligibility for asylum. *See* 8 C.F.R. § 1208.13(a); *Torres v. Mukasey*, 551 F.3d 616, 625 (7th Cir. 2008). Under INA § 208(b), asylum may be granted to an alien who is physically present in the United States if the alien meets the statutory definition of a "refugee." A "refugee" is defined as an individual who is unable or unwilling to return to her native country "because of persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." INA § 101(a)(42)(A). If an asylum applicant establishes that he has suffered past persecution, he is entitled to a rebuttable presumption that he has a well-founded fear of persecution on the basis of the original claim. 8 C.F.R. § 1208.13(b)(1). The court's asylum determination is discretionary. INA § 208 (b)(1); *Alsaghladi v. Gonzales*, 450 F.3d 700, 701 (7th Cir. 2006) ("Status as a victim of persecution makes an alien *eligible* for asylum but does not compel an exercise of discretion in his favor.") (emphasis in original).

2. Past Persecution

The harm Yee suffered rises to the level of persecution. Persecution is "punishment or the infliction of harm for political, religious, or other reasons that this country does not recognize as legitimate." *Dandan v. Ashcroft*, 339 F.3d 567, 573 (7th Cir. 2003). "Conduct can rise to the level of persecution without being life-threatening." *Tarraf v. Gonzales*, 495 F.3d 525, 535 (7th Cir. 2007). No generic checklist exists as to what counts as persecution, and the "frequency and severity" of mistreatment, whatever that may be, "remain relevant factors." *Id.* Examples of

¹ The REAL ID Act's credibility and corroboration provisions govern Yee's application because it was filed after May 11, 2005. *See* INA §§ 208(b)(1)(B) n.65.2, 240(C)(4) n.29.3, 241(b)(3)(C) n.39.1.

² Because the court grants Yee's application for asylum, it will not address his alternate claims for withholding of removal or protection under the Convention Against Torture.

persecution include “detention, arrest, interrogation, prosecution, imprisonment, illegal searches, and confiscation of property, surveillance, beatings, or torture.” *Firmansjah v. Gonzales*, 424 F.3d 598, 605 (7th Cir. 2005). An asylum applicant’s age may be taken into account when evaluating the severity of an incident and whether it qualifies as persecution, for the “harm a child fears or has suffered . . . may be relatively less than that of an adult and still qualify as persecution.” *Kholjavskiy v. Mukasey*, 540 F.3d 555, 570 (7th Cir. 2008). The court must review the evidence cumulatively. *Id.* at 571.

Yee’s treatment at the hands of the Singapore government rises to the level of persecution. Focusing on his first conviction when Yee was 16 years old,³ he was arrested at least twice, interrogated, prosecuted, placed on curfew, barred from social media, ordered to take down his social media posts, and finally imprisoned. In total, Yee was incarcerated 55 days between his time in a prison and a mental health facility. The prison was an adult facility where Yee was the youngest inmate and was mixed in with violent criminals. The lights in the prison were kept on 24-hours a day, making it difficult to sleep.

Two weeks of Yee’s detention were spent in an adult mental health facility, where the food was apparently medicated. Yee refused to eat, and he was eventually sent to a hospital. Yee also could not sleep because of the screams of mental patients, who in some cases were banging their heads against the facility walls. Yee then spent an additional two weeks in home detention. In short, Yee’s ordeal lasted approximately four months, from his arrest in March until he completed his sentence in July 2015.

Even after completing his sentence, Yee still faced like prosecution for any future offending posts. And a “credible threat that causes a person to abandon lawful political or religious associations or beliefs is persecution.” *Bejko v. Gonzales*, 468 F.3d 482, 486 (7th Cir. 2006) (citing *Kantoni v. Gonzales*, 461 F.3d 894, 898 (7th Cir. 2006)). Both because of his past prosecution and because of the clear danger of a future one, Singapore’s treatment of Yee, when taken as a whole, amounted to persecution.

3. Nexus to Yee’s Political Opinion

Singapore’s persecution of Yee was on account of his political opinions.⁴ For persecution to qualify an applicant for asylum, it must be “on account of” race, religion, nationality, membership in a particular social group, or political opinion. INA § 101(a)(42)(A); *Cece v. Holder*, 733 F.3d 662, 673 (7th Cir. 2013). The protected ground must be “one central reason” for the feared harm. INA § 208(b)(1)(B)(i); *Matter of N-M-*, 25 I&N Dec. 526 (BIA 2011); *Matter of C-T-L-*, 25 I&N Dec. 341, 350 (BIA 2010). The protected ground need not be the only motive behind the persecution. See *Gjerazi v. Gonzales*, 435 F.3d 800, 812-13 (7th Cir. 2006).

³ Yee’s second prosecution (in 2016), arrests, and sentence related to conduct that was not political in nature. Singapore may well have selectively enforced its speech laws against Yee during this second prosecution. The court, however, will not analyze whether this second prosecution amounted to persecution because the court finds that Yee’s treatment during his first prosecution, standing alone, was persecutory.

⁴ Because the court finds that Yee’s persecution was on account of his political opinion, it does not address is Yee’s alternative argument that he belongs to a particular social group of online dissidents in Singapore.

Yee bears the burden to “produce[] evidence from which it is reasonable to believe that the harm was motivated by a protected ground.” *Matter of S-P-*, 21 I&N Dec. 486, 490 (1996).

Yee argues that his persecution was on account of his political opinion. A political opinion is an opinion “that is expressed through political activities or through some sort of speech in the political arena.” *Li v. Gonzales*, 416 F.3d 681, 685 (7th Cir. 2005). This may include “someone who campaigns against the government and urges the voters to throw the rascals out” and “someone who writes an op-ed piece or otherwise urges the people to rid themselves of corrupt officials.” *Musabelliu v. Gonzales*, 442 F.3d 991, 995 (7th Cir. 2006).

An asylum applicant may show a persecutor’s motives through direct or circumstantial evidence. *INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992). Such evidence may include statements by persecutors or treatment of others in the population who are in a similar situation. See *Matter of S-P-*, 21 I&N Dec. 486, 494 (BIA 1996). “[I]n certain cases, the factual circumstances alone may constitute sufficient circumstantial evidence of a persecutor’s motives.” *Martinez-Buendia v. Holder*, 616 F.3d 711, 715 (7th Cir. 2010) (internal citations omitted). The court should look to the context in which these circumstances occurred, and evaluate “what individual or group of individuals issued a particular threat, in what setting, and for what purpose.” *Mitev v. INS*, 67 F.3d 1325, 1331 (7th Cir. 1995). A persecutory motive is one in which an individual seeks to “overcome a [protected] characteristic of a victim.” *Matter of Kasinga*, 21 I&N Dec. 357, 365 (BIA 1996).

Yee has produced evidence from which it is reasonable to believe that his persecution at the hands of the Singapore government was on account of his political opinion. Singapore’s stated reason for Yee’s prosecution was for his wounding religious feelings. As explained below, Singapore’s prosecution of Yee for wounding religious feelings was pretextual, as its real purpose was to stifle Yee’s political speech.

The Department of Homeland Security, which opposes Yee’s asylum request, argues that Yee was prosecuted under laws of general applicability and therefore does not qualify as persecution on account of Yee’s political opinion. But prosecution under laws of general applicability may still constitute persecution when executed for a “nefarious purpose.” *Sharif v. INS*, 87 F.3d 932, 935 (7th Cir. 1996); see also *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985) (“Prosecution for violating travel restrictions and laws of general applicability did not constitute persecution, unless the punishment was imposed for invidious reasons.”); *Guchshenkov v. Ashcroft*, 366 F.3d 554, 559 (7th Cir. 2004) (quoting *Perkovic v. INS*, 33 F.3d 615, 622 (6th Cir. 1994) (“[I]nternational law . . . does not permit the prohibition and punishment of peaceful political expression and activity, the very sort of conduct in which the petitioners engaged here.”)). Importantly, as the Second Circuit has held, “prosecution that is pretext for political persecution is not on account of law enforcement.” *Jin Jin Long v. Holder*, 620 F.3d 162, 166-167 (2d Cir. 2010) (citing *Xun Li v. Holder*, 559 F.3d 1096, 1108-10 (9th Cir. 2009)).

To determine whether legal prosecution under laws of general applicability may be a pretext for persecuting an asylum applicant for his political speech, the court looks to factors such as “the nature of the crime and the severity of the punishment, as well as the applicant’s political opinion, the motives behind his actions, the nature of the act committed, the nature of the prosecution and its motives, and the nature of the law on which the prosecution is based.” *In*

the matter of S-P-, 21 I&N Dec. 486, 493 (1996) (quoting *Matter of Izatula*, 20 I&N Dec. 149, 157 (BIA 1990) (Vacca, Bd. Member, concurring)). Examining these factors, it is clear that Yee's prosecutions for wounding religious feelings and obscenity was just a pretext to silence his opinions.

First, the video "Lee Kuan Yew is Finally Dead" video, which is transcribed as Exhibit 5, Tab B4, was scathing in its criticism of not just Yew but of the Singapore regime in general. About Yew: "He was a dictator but managed to fool most of the world to think he was a democrat. . . . [D]uring your rule, you controlled the entire media and education, proliferating nationalistic propaganda on a daily basis. . . . Despite our voting rights, he is undoubtedly totalitarian." *Id.* About Singapore in general: "We are one of the richest countries in the world, but we have one of the highest income inequalities, highest poverty rates, and our government spends one of the lowest on healthcare and social security. The money spent on the public is so low, it's more representative of a third world country. And yet the amount of taxes is one of the highest in first world countries." *Id.* So, the video contained harsh criticism of both Yew and the Singapore government.

Second, religion was only tangential to the video. The video is almost entirely about Yew and Singapore, and its discussions of religion were only used to make a point about Yee's dismal opinion of Yew. In fact, religion took up only about 30 seconds of the video's 8½-minute content.

Third, the public response to the video was entirely about its criticism of Yew, not about its offense to religion. Yee and both his witnesses testified similarly about the nature of the public attention to the video, and their testimony went unrebutted by DHS.

Fourth, the evidence presented showed that Yee's prison sentence was unusually long and harsh, especially for a young offender.

Fifth, the terms of Yee's pre-trial release prohibited him from posting to social media. These restrictions were also highly unusual and restrictive and served the main purpose to silence Yee's criticism of the government.

Sixth, other people who made disparaging comments about religions but who were not similarly critical of the Singapore regime avoided prosecution. These include Calvin Cheng and Jason Neo. *See* Exh. 5, Tabs D1 and D3. Both made comments critical of Islam, equating Muslims with terrorists. Neither was charged.

Seventh, regarding the obscenity charge related to the line drawing, many more-explicit pictures are available to the Singapore public and do not result in prosecutions. But this particular drawing had the face of Yew superimposed on one of the figures (behind one with Margaret Thatcher's head). This again raises the inference that the prosecution was politically motivated.

Eighth, the country condition reports and expert and lay witness testimony all describe that this is the *modus operandi* for the Singapore regime – critics of the government are silenced by civil suit for defamation or criminal prosecutions.

So, though Yee’s prosecutions may have been legal under Singapore law, they clearly served a “nefarious purpose,” namely, to stifle political dissent. *See Sharif*, 87 F.3d at 935. Thus, Yee has demonstrated he suffered past persecution on account of his political opinion.

4. Inflicted by the Singapore Government

The political persecution was a criminal prosecution by the Singapore government and was therefore inflicted by the government. *Tarraf v. Gonzales*, 495 F.3d 525, 527 n.2 (7th Cir. 2007); *see also Firmansjah*, 424 F.3d at 606.

5. Presumption of a Well-Founded Fear of Persecution

Past persecution raises a rebuttable presumption of a well-founded fear of future persecution on the basis of his original claim. 8 C.F.R. § 1208.13(b)(1); *Marquez v. INS*, 105 F.3d 374, 379 (7th Cir. 1997); *see also Xiao v. Mukasey*, 547 F.3d 712, 716 (7th Cir. 2008). The government may rebut this presumption by establishing, by a preponderance of the evidence, that either: (1) there has been a fundamental change in circumstances in the country of removal, such that Yee’s life or freedom would not be threatened on account of the protected ground; or (2) Yee could avoid future persecution by relocating to another part of the country and under the circumstances, it would be reasonable to expect Yee to do so. 8 C.F.R. § 1208.13(b)(1)(i)-(ii).

DHS has not presented any evidence to rebut this presumption, nor could they; the regime is the same and there’s nowhere safe in Singapore for Yee to hide from the government. As noted, Yee’s return to Singapore would likely result in additional prosecutions.

6. Discretion


The court will exercise its discretion in favor of granting asylum. The court’s discretionary determination should be based on the totality of the circumstances. *Matter of Pula*, 19 I&N Dec. 467, 473 - 474 (BIA 1987) (balancing the fraud the alien committed when entering the United States against relevant humanitarian considerations such as age or poor health); *Alsaglati*, 450 F.3d at 701 (“An alien who enters the United States by fraud must show strong equities to merit a favorable exercise of that discretion.”); *Aioub v. Mukasey*, 540 F.3d 609, 612 (7th Cir. 2008). Yee’s social media posts in Singapore, though undoubtedly offensive to many, do not create any basis to deny asylum as a matter of discretion.

III. CONCLUSION

Yee has met his burden of showing that he suffered past persecution on account of his political opinion and has a well-founded fear of future persecution in Singapore. Accordingly, this court grants his application for asylum.

ORDER OF THE IMMIGRATION JUDGE

IT IS HEREBY ORDERED that Amos Pang Sang Yee's application for asylum under section 208(a) of the INA be GRANTED.


SAMUEL B. COLE
IMMIGRATION JUDGE

APPEAL INFORMATION

Any appeal of this decision is due at the Board of Immigration Appeals no later than April 23, 2017 (30 days from issuance of this order).