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Zhi Liao v. Attorney General United States

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2477

ZHI FEI LIAO,
Petitioner
v.

ATTORNEY GENERAL UNITED STATES OF AMERICA

On Petition for Review of a Decision of the
Board of Immigration Appeals
(A074-862-076)
Immigration Judge: Kuyomars Q. Golparvar

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
May 6, 2021

Before: HARDIMAN, PHIPPS, and COWEN, *Circuit Judges*.

(Filed: May 7, 2021)

OPINION*

HARDIMAN, *Circuit Judge*.

Zhi Liao returns to this Court a second time. We granted his first petition for review after holding that the BIA erred when it held that Liao's conviction for violating

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Pennsylvania's child endangerment statute, 18 PA. CONS. STAT. § 4304(a)(1), was a removable child abuse offense under the Immigration and Nationality Act. *See Liao v. Att'y Gen. (Liao I)*, 910 F.3d 714, 717 (3d Cir. 2018).

In *Liao I*, the BIA did not address whether Liao's terroristic threats conviction in violation of 18 PA. CONS. STAT. § 2706(a)(1) rendered him removable, so we remanded the case for consideration of that issue. The Board of Immigration Appeals upheld the immigration judge's ruling that Liao was removable to his native China because of that conviction. Liao petitions for review once again.

Exercising our jurisdiction over final orders of removal under 8 U.S.C. § 1252(a)(1), we review Liao's legal challenge to the BIA's single member decision *de novo*. *Liao I*, 910 F.3d at 718. The Government now concedes that Liao's Pennsylvania conviction for terroristic threats does not constitute a removable crime of domestic violence under 8 U.S.C. § 1227(a)(2)(E)(i). *See Gov't Br.* 3, 16, 19 (citing *United States v. Brown*, 765 F.3d 185, 193 (3d Cir. 2014)). So we will grant the petition, vacate the final order of removal, and remand with instructions for the BIA to remand to the IJ with instructions to dismiss the removal proceedings against Liao.