

Report on Research Compliance Volume 21, Number 8. August 01, 2024

'No Evidence': Judges Toss KU Researcher's Conviction; Reinstatement Battle Is Next

By Theresa Defino

"I am writing with good news!!! Yesterday, the 10th Circuit overturned Franklin's only remaining conviction and ordered the trial judge to enter a verdict of NOT GUILTY!!! After five long and difficult years, Franklin has been completely exonerated!!!"^[1]

So wrote Hong Peng, the wife of Feng "Franklin" Tao, former associate professor of chemical engineering at the University of Kansas (KU), in a July 12 update on a GoFundMe page. Peng called the last five years "like navigating the valley of death," and noted that Tao "has not earned a salary for over four years." Born into extreme poverty in China in 1971, Tao came to the U.S. in 2002, earning a doctorate from Princeton and later joining KU as a tenured professor in 2014.

He was accused of failing to disclose a position and support from a Chinese university that he received at the same time he was the principal investigator on National Science Foundation (NSF) and Department of Energy (DoE) awards.^[2]

Tao's attorney told RRC in January 2023 after his sentencing, that KU's termination of Tao in April 2022 was "premature" because the case was still being appealed.^[3] With the July 11 dismissal of the sole conviction on a false statement charge, Tao's bid to regain his job is now moving forward in earnest.

"We are going to push KU to rehire Franklin, as we believe he was wrongfully terminated," Peter Zeidenberg, a partner with ArentFox Schiff LLP, said in a July 18 email. "The basis of the dismissal was the fact that he was convicted of a felony. We had asked that KU not take any adverse action until the appeal process was complete, because we expected that the conviction would be overturned. Now that it has been, there simply was no proper basis for Dr. Tao to have been dismissed."

KU officials did not respond to RRC's request for comment on the appeals court's reversal of Tao's conviction or on his desire to be reinstated.

The quest to be rehired is the coda to the government's first case of a scientist charged under the Trump administration's "China Initiative," one that federal authorities lost at every turn.

Tao was indicted three times as the government revised the charges; the first was in April 2019 when three charges were brought against him, a number that later grew to 10 before ending with eight. Following a 12-day trial in April 2022, the jury rendered a split verdict: guilty on four of eight counts—three for wire fraud and one for making a false statement—and not guilty on three other charges for wire fraud and one of making a false statement.^[4]

But six months later, Julie A. Robinson, the senior judge for the District of Kansas who had presided over the trial, reversed the guilty verdict on three charges. She upheld Tao's conviction for making a false statement, which

related to his failure in 2018 to disclose on a KU form his affiliation with a Chinese university.^[5] In January 2023, Robinson sentenced Tao to time served—he spent a week in prison after his arrest—and two years of supervised release, turning aside the government’s recommendation for 30 months in prison and a \$100,000 fine.

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