

Federal Court



Cour fédérale

Date: 20150709

Docket: IMM-5123-14

Citation: 2015 FC 838

Ottawa, Ontario, July 9, 2015

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

LAN MA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Refugee Protection Division of the Immigration and Refugee Board [Board] denied the applicant's claim for protection as a Convention refugee and as a person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] on June 5, 2014, finding that the determinative issue was the applicant's credibility and that the applicant had failed to provide sufficient credible or trustworthy evidence to establish her claim. The applicant now seeks judicial review of the decision pursuant to section 72 of the Act.

[2] The application for judicial review is dismissed for the reasons which follow.

Background

[3] The applicant, Lan Ma, is a citizen of China. She recounts that she suffered from stomach pain and, in May 2010, was hospitalized and diagnosed with gastric and duodenal ulcers. She turned to Falun Gong in July 2010 when her condition did not improve. She joined a practicing group and, after three months, she claims that she began to feel better.

[4] The applicant recounts that her practice session at her leader's home was raided on March 12, 2011 by the Public Security Bureau [PSB]. The lookout warned the group as the PSB was approaching and the applicant and others fled. The applicant escaped through the back door, ran through a forested area and found a cab that took her to her cousin's home. The applicant claims that her husband told her that the PSB visited her home twice, first threatening her husband to disclose her whereabouts and second, to arrest her.

[5] The applicant then found a smuggler who arranged for her to come to Canada. She travelled via Hong Kong to Toronto and claimed refugee protection.

The Decision

[6] The Board found that the applicant's credibility was the primary issue and made several specific negative credibility and plausibility findings.

[7] The Board found that the applicant's testimony was laboured, that she contradicted herself and provided convoluted answers, that some exchanges were "tortuous", and, more generally, that her testimony lacked the spontaneity of evidence rooted in reality.

[8] The Board found that the applicant's hospital admission certificate was not reliable because it was issued on the day she was admitted, yet it indicated that she had been treated for five days. The Board found that it was manufactured for the purpose of supporting a contrived claim.

[9] The Board found the applicant's testimony, that she threw out her medical book, which records a person's medical history and is customary in China, to not be credible. The Board also noted her inconsistent testimony – first that she deliberately threw it out while cleaning up and later, that she asked her husband to look for it but he could not find it. The Board found that the applicant did not provide the medical book because its contents would not corroborate her allegations.

[10] With respect to the raid by the PSB, the Board found the applicant's testimony contrived and noted that it is odd that the PSB would not cover the back entrance when carrying out a raid. The Board found it implausible that the applicant could escape by running through a forest in the dark in a semi-rural area, yet be able to hail a cab.

[11] The Board also found that the applicant's testimony regarding communication with her husband via her cousin using a payphone was convoluted and likely concocted. The Board noted

that if the applicant's concern was about the phone being tapped, it would have been more likely that the applicant's husband's phone would be tapped and not her cousin's phone.

[12] The applicant's testimony regarding her arrangements with the smuggler was also found to be convoluted. In addition, the country condition documents were inconsistent with the applicant's assertion that the smuggler obtained a Canadian visa for her.

[13] The Board doubted that the applicant could have left China on her own genuine passport if she were wanted by the PSB. The Board also noted that Chinese citizens require approval to travel to Hong Kong, including an exit certificate from China which must be obtained from the municipal or county PSB. If the applicant were wanted by the PSB, she would not reasonably have been able to obtain the exit certificate.

[14] The Board noted that false documents are readily available in China and, combined with the credibility concerns, found that the summons was unreliable, untrustworthy and of no probative value.

[15] With respect to the applicant's Falun Gong activities in Canada, the Board considered the letter of a fellow Falun Gong practitioner and the few photographs of the applicant standing with others practicing exercises. The Board found that, in the circumstances, the documents were self-serving and insufficient to overcome its credibility concerns.

[16] On judicial review, the applicant disputes each credibility and plausibility finding and also argues that the Board failed to conduct the required *sur place* analysis.

The Standard of Review

[17] Where the standard of reasonableness applies, as in this case, the Court must determine whether the decision “falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law” (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190 [Dunsmuir]). Deference is owed to the decision-maker and the Court will not reweigh the evidence.

[18] In *Newfoundland and Labrador Nurses’ Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paras 14-16, [2011] 3 SCR 708 [*Newfoundland Nurses*], the Supreme Court of Canada elaborated on the requirements of *Dunsmuir*, noting that reasons are to “be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes” and that courts “may, if they find it necessary, look to the record for the purpose of assessing the reasonableness of the outcome.”

[19] It is also well-established that boards and tribunals are ideally placed to assess credibility: *Aguebor v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 732 at para 4, 160 NR 315 (FCA). The Board’s credibility findings should be given significant deference: *Lin v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1052 at para 13, [2008] FCJ No 1329; *Fatih v Canada (Minister of Citizenship and Immigration)*, 2012 FC 857 at para 65,

415 FTR 82; *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 at para 7, 228 FTR 43.

[20] With respect to the Court's role in reviewing credibility findings, the analysis of Justice Mary Gleason (as she then was), in *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319 at para 42, [2012] FCJ 369 [*Rahal*] is instructive:

First, and perhaps most importantly, the starting point in reviewing a credibility finding is the recognition that the role of this Court is a very limited one because the tribunal had the advantage of hearing the witnesses testify, observed their demeanor and is alive to all the factual nuances and contradictions in the evidence. Moreover, in many cases, the tribunal has expertise in the subject matter at issue that the reviewing court lacks. It is therefore much better placed to make credibility findings, including those related to implausibility. Also, the efficient administration of justice, which is at the heart of the notion of deference, requires that review of these sorts of issues be the exception as opposed to the general rule. As stated in *Aguebor* at para 4:

There is no longer any doubt that the Refugee Division, which is a specialized tribunal, has complete jurisdiction to determine the plausibility of testimony: who is in a better position than the Refugee Division to gauge the credibility of an account and to draw the necessary inferences? As long as the inferences drawn by the tribunal are not so unreasonable as to warrant our intervention, its findings are not open to judicial review...

(see also *Singh* at para 3 and *He v Canada (Minister of Employment and Immigration)*, 49 ACWS (3d) 562, [1994] FCJ No 1107 at para 2).

[21] Other key principles noted by Justice Gleason in *Rahal*, which I characterized as hallmarks of a credibility assessment in another recent decision (*Hos v Canada (Minister of Citizenship and Immigration)*, 2015 FC 791 at para 27), are repeated below:

- Contradictions in the evidence, particularly in the applicant's own testimony, will provide a reasonable basis for finding the claimant to lack credibility, but such contradictions must be real and more than trivial or illusory.
- While the sworn testimony of the applicant is to be presumed to be true in the absence of contradiction, it may reasonably be rejected if the RPD finds it to be implausible. A finding of implausibility must be rational, sensitive to cultural differences and clearly expressed.
- The Board may consider the demeanor, including hesitations, vagueness and changes or elaboration of the story in assessing credibility, but it is preferable if there are also other objective facts to support the credibility finding.
- The Board must make clear credibility findings with sufficient particulars.

(*Rahal*, at paras 43-46)

[22] In the present case, the Board noted the applicant's demeanor, laboured testimony, contradictory answers and convoluted explanations, and then made specific credibility and plausibility findings.

Are The Credibility and Plausibility Findings Reasonable?

The Applicant's Submissions

[23] The applicant takes issue with every finding of the Board with respect to credibility and plausibility.

[24] The applicant submits that simply because fraudulent documents are prevalent in China does not mean that the applicant's summons is fraudulent. Similarly, simply because the Board

had credibility concerns with other parts of the applicant's claim does not mean that the summons is fraudulent. The Board was required to assess the summons on its own merits. The applicant submits that the Board had no evidentiary basis to rebut the presumption that documents are genuine (*Lin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 157 at paras 53-54, [2012] FCJ No 167 [*Lin*] and *Guo v Canada (Minister of Citizenship and Immigration)*, 2013 FC 400 at para 4, [2013] FCJ No 444).

[25] The applicant argues that the Board's finding about the hospital admission certificate is unreasonable and made without regard to the evidence (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425, 157 FTR 35). The Board ignored its own National Documentation Package which indicates that medical records in China are detailed and include information on diagnosis and treatment.

[26] The applicant submits that the Board erred by making implausibility findings that were speculative, made without regard to the evidence, or made based on a misapprehension of the evidence and without any support by a reliable and verifiable evidentiary base (citing *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776, [2001] FCJ No 1131 [*Valtchev*]; *Gjelaj v Canada (Minister of Citizenship and Immigration)*, 2010 FC 37, [2010] FCJ No 31; *Mahmood v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1526 at para 16, [2005] FCJ No 1883).

[27] The applicant argues that the Board's finding that she could not obtain a visa without a Use of Representative Form and without attending in person is based on a misapprehension of

the evidence. The Board's National Documentation Package, which includes the relevant Response to Information Request [RIR], indicates that a visa can be obtained in three ways, including by mail. The applicant submits that it is possible that the smuggler used his own signature and mailed the application for the visa which avoids the need for the applicant to attend or to submit a Use of Representative Form.

[28] The applicant also argues that the Board failed to consider how the smuggler's networks and arrangements could assist her in circumventing airport security. The applicant relies on *Zhang v Canada (Minister of Citizenship and Immigration)*, 2008 FC 533, [2008] FCJ No 678 [Zhang], where the Federal Court found that it would not be implausible that a person who is wanted would be able to travel on his own genuine passport when assisted by a smuggler.

[29] The applicant submits that the Board's finding that she would have needed an exit permit to travel to Hong Kong en route to Toronto was based on an error of fact. The relevant RIR describes article 22 of the Basic Law of Hong Kong, cited by the Board, and indicates that the entry permit requirement does not apply to a Chinese national in transit for less than seven days and would not have applied to the applicant.

[30] With respect to the PSB raid and the applicant's escape, the applicant argues that the Board's findings were speculative. First, the Board's comment regarding the peculiarity of the PSB not covering the back of the house was capricious because the evidence does not indicate that the PSB approached the house with the intention of conducting a raid nor does it indicate how much advance warning the occupants had.

[31] Second, the Board's conclusion that the applicant could not run through a forest at night and find a cab is not one of the "clearest of cases" where the facts are outside the realm of what can reasonably be expected and where implausibility findings can reasonably be made (*Valtchev*, at para 7).

[32] Third, the Board's inferences regarding the applicant's communication with her husband failed to consider that she was protecting her cousin from being caught, hence the need for her cousin to use a payphone to communicate with her husband.

[33] The applicant also takes issue with the Board's findings about her medical book, arguing first, that the Board relied on specialized knowledge, which was not put to the applicant to permit her to respond and second, that she explained why she did not have her medical book. She was cured by Falun Gong and there was no reason for her to retain her medical book which records only traditional and Chinese medical treatment.

The Respondent's Submissions

[34] The respondent submits that all the credibility and plausibility findings were reasonable. The Board had the benefit of observing the applicant and is, therefore, in the best position to determine her credibility. The plausibility findings were based on common sense and rationality.

[35] The rejection of the PSB summons was not based solely on the availability of fraudulent documents in China; it was also based on the applicant's credibility. In addition, the decision

does not rest on the summons finding (citing *Ye v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1381 at para 3, [2012] FCJ No 1498).

[36] The respondent submits that the applicant's argument regarding the hospital admission certificate is flawed. First, it does not address the Board's reasonable finding that the document was manufactured for the purpose of supporting a contrived claim because it stated the duration of the applicant's treatment, but was dated on the day that the applicant was purportedly admitted. Second, the RIR cited by the applicant is about medical records, not admission certificates. The respondent adds that the applicant could have clarified her evidence about her hospital stay by presenting her medical book.

[37] The respondent also notes that the applicant now offers other explanations but these alternatives do not make the Board's findings unreasonable (*Ma v Canada (Minister of Citizenship and Immigration)*, 2011 FC 417 at para 39, [2011] FCJ No 530 [*Ma*]).

The Credibility and Plausibility Findings are Reasonable

[38] The evidence relied on by the Board in support of its adverse credibility and plausibility findings falls squarely within the type of observations and evidence referred to above as indications or "hallmarks" of a credibility assessment and are findings that can be relied on to reject an applicant's testimony.

[39] With respect to the summons, documents issued by a foreign government are presumed to be valid unless evidence is produced to prove otherwise.

[40] In *Lin*, Justice Russell noted that the Board has a duty to determine whether particular documents are authentic and that fraudulent documents are readily available in China “does not, for that reason alone, mean that the Applicant’s documents were fraudulent” (at para 53). The Court added, at para 54:

The RPD’s reasoning would mean that even genuine documents would not be acceptable. The fact that inauthentic documents are available does not relieve the RPD of the duty to determine whether particular documents presented by a claimant are genuine or not. ...

[41] At para 55, the Court added that “[t]he RPD was obliged to examine and weigh the actual documents in front of it, rather than simply rejecting them out of hand.”

[42] In *Cao v Canada (Minister of Citizenship and Immigration)*, 2012 FC 694 at para 15, [2012] FCJ No 885, Justice Mactavish found, with respect to identity documents: “Documents purporting to be issued by a foreign jurisdiction are entitled to the presumption of the truth of their contents, absent valid reasons to reject them.”

[43] In the present case, there is no explicit reference in the decision that the Board examined the document. However, the transcript reveals that the Board questioned the applicant about the summons and noted that the applicant had provided a copy of the part of a summons that would normally have been retained by the PSB. The Board retained the summons noting it needed to determine which parts were photocopied and which were original. This suggests that the Board did examine the summons.

[44] In addition and contrary to the applicant's assertion, the Board did not find the summons and hospital admission certificate to be of no probative value only because of the prevalence of fraudulent documents in China. The present circumstances differ from *Lin*, relied on by the applicant. The Board noted several reasons to doubt the credibility of the applicant, tied its assessment of the country documentation indicating the availability of fraudulent documents in China to its credibility findings, and reasonably concluded the summons was not genuine.

[45] In *Cao v Canada (Minister of Citizenship and Immigration)*, 2015 FC 315, [2015] FCJ No 430, Justice Noël considered an applicant's arguments that the Board unreasonably found that an arrest summons was fraudulent. Justice Noël noted at para 20:

Contrary to the Applicant's argument, the RPD's decision that the arrest summons submitted by the Applicant is fraudulent and to afford it no weight is reasonable (*Jing*, above at para 17). The RPD considered the document and concluded that it is fraudulent based on the lack of credibility of the Applicant and on the evidence of the abundance of fraudulent documents in China (AR page 18 at paras 49-50). I further agree with the Respondent that the case law cited by the Applicant, *Yin v Canada (Minister of Citizenship and Immigration)*, 2010 FC 544 does not help the Applicant's case. Indeed, in this decision, this Court determined that the RPD had not evaluated the evidence put forward by the Applicant and discounted other evidence submitted by the Applicant. This is not the case here. In the case at bar, the RPD assessed the documents presented by the Applicant, such as the arrest summons, and other documents, such as his baptismal certificate, church letter and photos (AR page 19 at paras 48-52). The RPD did not disregard the arrest summons, or any other document, but rather analyzed them in the context of the Applicant's refugee claim. The intervention of this Court on this matter is not warranted.

[46] *Cao* is more analogous to the present case. Moreover, in the present case, the Board's decision does not rest on its finding regarding the summons.

[47] The Board did not err in making a negative credibility finding based on the applicant's hospital admission certificate. The applicant's arguments mischaracterize the Board's findings and the documentary evidence. The RIR does not address hospital admission certificates but refers to the records kept in medical books, the hospital medical records for patients with serious illnesses, the practice of clinics and the report patients receive on discharge. The Board's concern about the certificate is that it was dated on the day the applicant was admitted to hospital but it referred to treatment for five days, suggesting that the five days had already passed or suggesting that it could be predicted how long she would stay in the hospital upon admission.

[48] Although the Board may have not acknowledged that applications for a visa could be made by mail, I do not necessarily agree that the RIR, which refers to mail applications, describes the process as simply as the applicant suggests. The RIR only refers to *submitting* an application for a visa in person at the Embassy, to a Canadian Visa Application Centre or by mail to the Embassy (Visa Section). The RIR does not indicate that the approved visa would be sent to the applicant by mail or that the applicant would not be required to attend to retrieve the visa or would not be contacted during the processing of the visa. The RIR also notes that an applicant may be called for an interview and a medical examination may be required. In my view, a mail-in process for a visa without more scrutiny, as suggested by the applicant, invites the very sort of activity by smugglers the applicant now alleges. Those processing visa applications would likely be alert to such practices.

[49] In addition, the applicant's testimony about the role of the smuggler and obtaining the visa was reasonably found to be "tortuous", which is reflected in the transcript, and which supports the adverse credibility inference.

[50] With respect to the raid and the applicant's escape, while it may have been physically possible for the applicant to find her way through a forested area in the dark in an area the applicant herself inconsistently described as "something like a village, it is a remote area", "borderline between the suburban and the urban area", "in the woods", "farming but not completely, it is anyway non industrial" and to then find a cab on a street beyond the "woods", the Board's finding that this was not plausible is based on rationality and common sense. The finding has a basis in the applicant's own evidence about her quick escape, the geographic description, the date and the time of day. While the applicant may now suggest that it was possible for her to escape as she claimed and argues that there is no evidence that it was not impossible, this argument does not render the Board's finding unreasonable.

[51] In *Valtchev*, often cited with respect to plausibility findings, the Court found at para 7:

A tribunal may make adverse findings of credibility based on the implausibility of an applicant's story provided the inferences drawn can be reasonably said to exist. However, plausibility findings should be made only in the clearest of cases, i.e., if the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the claimant.

[52] In my view the applicant's story falls outside the realm of what could reasonably be expected.

[53] The Board's finding that it was implausible that the applicant would be able to leave China undetected using her own genuine passport, if indeed she was wanted by the PSB, is reasonable. The Board relied on the country condition documents regarding the rigorous exit and security controls at the airports, including the examination of passports and immigration and departure cards of Chinese travelers, and the verification of their identities through a computerized records system. The Board also noted that Chinese citizens traveling overseas are required to show a valid passport, visa, boarding pass and exit registration card. Airlines also have to provide information on passengers to Chinese border authorities. Despite the applicant's arguments that the smuggler would have found a way to avoid verification of her passport, this is not consistent with the documentary evidence that the Board is entitled to rely on.

[54] The present circumstances differ from those in *Zhang*, relied on by the applicant, where the Court concluded that the Board engaged in speculation when it found that hundreds of officials needed to be bribed in order to ensure that an applicant was not caught while using her own genuine passport to exit China (at para 11). In the present case, the Board did not speculate about bribes. Rather it concluded, based on the evidence, that because the applicant used her genuine passport and her information was likely transmitted to the PSB in the usual course, it is probable that her testimony that she was wanted by the PSB is not credible.

[55] With respect to the need for an exit permit to travel to Hong Kong, the information in the RIR relied on by the applicant to argue the Board based its finding on a mistaken fact is not as clear cut as the applicant submits. Article 22 of the Basic Law of Hong Kong does not directly address the exception from applying for entry for Chinese passport holders staying less than

seven days. The RIR notes that these people may be allowed to stay without applying for entry as long as “the usual immigration requirements are met...” In addition, the RIR is consistent with the Board’s finding that an “exit endorsement” must be obtained from the municipal or county PSB to enter Hong Kong.

[56] Contrary to the applicant’s submissions, the Board’s findings regarding the applicant’s medical book were not based on its specialized knowledge and there was no breach of procedural fairness. The Board member asked the applicant about her medical book and described his understanding that it is a practice in China for citizens to have a medical book to record all medical interventions. The applicant acknowledged that this was the practice. The Board member then asked her several questions about where her book was, why she had not kept it and then probed her further when she responded that she threw it out.

[57] The Board reasonably rejected her explanation that she no longer needed her medical book because she was cured by her practice of Falun Gong.

[58] The Board’s credibility findings were also based on the applicant’s inconsistent responses; first, that she threw it out because she did not need it and then, that she asked her husband to look for it.

[59] The applicant argued that if any one of the credibility or plausibility findings is unreasonable, then the decision is unreasonable because it is not possible to determine the

tipping point for the Board's determination that the applicant lacked credibility and had not established her claim.

[60] I disagree. In this case the Board made many reasonable credibility and plausibility findings supported by the evidence and grounded in rationality. The overall decision is reasonable.

[61] As noted by Justice Mary Gleason (as she then was) in *Su v Canada (Minister of Citizenship and Immigration)*, 2013 FC 518 at para 15, [2013] FCJ No 588 [*Su*]:

Even if one or possibly two of the reasons offered by the Board in support of its credibility determination bear no weight, the bulk of its reasons are solid. Thus, there is no basis to interfere with the RPD's assessment of the applicant's lack of credibility, particularly in light of the deference to be afforded to its assessment.

[62] The applicant also argued that there were other possible explanations that the Board failed to consider, for example, with respect to her visa application, her communication with her husband, the networks that smugglers rely upon, and that her escape was not implausible because the lookout may have given the group advance notice of the approach of the PSB. However, such other alternative explanations are speculative and do not render the Board's findings unreasonable.

[63] As noted by Justice Rennie (as he then was) in *Ma*, where the Board made several credibility findings, each of which was challenged on judicial review, at para 39:

In sum, the applicant had an explanation in respect of each discrepancy or variation in her testimony. For some, such as the

existence of why she sought the marriage certificate in 2001, the explanation was inconsistent with the fundamental issue as to the date of birth of her son. The existence of an alternate explanation, or interpretation of the evidence, does not mean that the Board's findings are unreasonable, *Eustace v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1553.

Did the Board Conduct an Analysis of the Sur Place Claim?

[64] The applicant submits that the Board did not make any explicit findings regarding her *sur place* claim based on her knowledge of Falun Gong and her activities in Canada as it was required to do. The applicant relies on *Chen v Canada (Minister of Citizenship and Immigration)*, 2014 FC 749, 242 ACWS (3d) 909, where Justice Russell noted at para 58 that the Board must consider the applicant's activities in Canada:

The very nature of a *sur place* claim requires the Board to consider the full context of what the Applicant has done since she came to Canada. There is no real assessment by the Board of whether the Applicant has become a genuine Falun Gong practitioner in Canada. The bald assertion that she isn't genuine because she wasn't a genuine practitioner in China does not make logical sense and simply ignores the guiding jurisprudence of this Court on point. See, for example, *Huang*, above, at para 11, and *Hailu*, above, at para 6; *Jin*, above, at para 19; *Yin*, above, at paras 89-90.

[65] With respect to the letter of support from a Canadian Falun Gong practitioner and the photographs of the applicant practicing Falun Gong which the Board dismissed as "self-serving", the applicant argues that all evidence from an applicant could be considered as self-serving and this does not provide a reason to reject it.

[66] The respondent submits that it is reasonable for the Board to find that the applicant's lack of credibility affects the weight of the other evidence submitted, as it depends on her testimony

(*Singh v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1543 at paras 13-14, [2005] FCJ No 1908; *Singh v Canada (Minister of Citizenship and Immigration)*, 2007 FC 62 at paras 34-36, [2007] FCJ No 97; and, *Rahaman v Canada (Minister of Citizenship and Immigration)*, 2002 FCA 89 at paras 29-30, [2002] FCJ No 302).

The Board's Sur Place Finding is Reasonable

[67] In the present case, the Board's assessment of the *sur place* claim is brief but it did assess the claim. The Court has considered the record and the decision, as guided by *Newfoundland Nurses*, in making this finding. The Board noted that it gave little weight to the one letter from the applicant's fellow practitioner in Canada and the few photos. There was nothing other than the applicant's testimony, which the Board found not to be credible, for the Board to assess.

[68] This is similar to the conclusion reached in *Su*, by Justice Gleason (as she then was), at para 17:

Contrary to what the applicant asserts, the Board did assess the *sur place* claim and the evidence the applicant tendered in support of his assertion that he was a genuine Falun Gong practitioner in Canada. It simply found this evidence insufficient to establish the genuineness of the claimed practice. There is nothing unreasonable in this conclusion, especially when viewed in light of the determination that the applicant fabricated what had occurred in China. In short, there is nothing unreasonable in finding that a few letters and pictures do not establish that a claimant is a genuine adherent to a religion, especially where, as here, he has lied about being a practitioner in order to make a fraudulent refugee claim. In this regard, I endorse the comment of Justice Pinard in *Jin* at para 20, that:

[I]t would be absurd to grant a *sur place* claim every time a pastor provides a letter attesting to an applicant's membership in his church.

[69] Justice Zinn made a similar finding in *Jiang v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1067 at paras 27-28, [2012] FCJ No 1149:

In my view, the Board must be entitled to import its credibility findings into its assessment of an applicant's *sur place* claim. The Board here found that the applicant had fabricated her story to claim refugee protection. A reasonable inference from that premise is that her current knowledge, appearance in photos, and letters of support were fostered in the intervening two years to support that fraudulent claim.

This Court has held that it is permissible for the Board to assess an applicant's genuineness and therefore its *sur place* claim in light of credibility concerns relating to the original authenticity of a claim: *Hou v Canada (Minister of Citizenship and Immigration)*, 2012 FC 993, at para 57; *Yang v Canada (Minister of Citizenship & Immigration)*, 2012 FC 849, at para 19.

[70] In the present case, the applicant submitted one short letter and four photos. Although she recounted her activities in Canada at the hearing, the Board was entitled to doubt this aspect of her claim, given the Board's overall finding that she failed to provide sufficient credible or trustworthy evidence to establish her claim. In addition, as noted above, once the evidence found not to be credible was discounted, the Board was left with very little to assess with respect to the *sur place* claim.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and
2. There is no question for certification.

"Catherine M. Kane"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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