

Federal Court



Cour fédérale

Date: 20200115

Docket: IMM-3136-19

Citation: 2020 FC 52

Toronto, Ontario, January 15, 2020

PRESENT: Madam Justice Simpson

BETWEEN:

JINTU CAO (A.K.A. JIN TU CAO)

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered orally from the Bench in Toronto, Ontario on January 14, 2020)

I. PROCEEDING

[1] This application is for judicial review of a decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board dated April 23, 2019 [the Decision], in which the Panel Member [the Member] denied the Applicant's claim for refugee protection because he was not credible and because his claim did not have a nexus to a Convention ground. This application

was brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

II. BACKGROUND

[2] The Applicant is a 36-year-old male citizen of China.

[3] On February 6, 2012, he received a notice from the government that his land and his house, which he rented out, would be expropriated, and that he would be compensated. He subsequently received a notice of compensation but was disappointed by the low number. Other landowners were also unhappy with the compensation, which they considered to be below market value.

[4] In late February, the Applicant and his neighbours visited the town offices but no one would consider their complaints. They were asked to submit them in writing and did so in the form of a petition, which was submitted on March 1, 2012.

[5] The Applicant and three neighbours became the representatives of the group of petitioners. They were told to expect a reply from the town in 8 weeks.

[6] In the meantime, representatives from the Removal and Demolition Office [RDO] visited and accused the Applicant and his neighbours of spreading anti-government rumours and threatened to “deal” with them if they continued to object. The RDO personnel later offered them compensation to co-operate, but they refused.

[7] On May 4, 2012, the RDO personnel arrived and began demolition. The Applicant attempted to reach the site, but when a neighbour told him that police were arresting people, the Applicant did not join the active confrontation at the demolition site. Instead, fearing arrest, he went into hiding.

[8] While in hiding, the Applicant learned that other people had been arrested that day. He was told that the police looked for him at his home and questioned his wife. They asked her to tell him to report. They also visited his relatives' homes.

[9] The Applicant felt that he could not relocate in China because the police had an "advanced" network, which meant that he would be found. Accordingly, with a smuggler's help, the Applicant acquired an improper US Visa and left China on his own Chinese passport. He entered Canada on June 9, 2012.

[10] The Applicant later learned that his house had been demolished and that the police were still looking for him. As well, some of the people who had been arrested were still detained. At his RPD hearing, he testified that the PSB continued to visit his house in China between 2012-2019. For the hearing, he provided a Summons [the Summons] to show that he was a wanted man. The Summons said that he was wanted for interrogation for "taking the lead in organizing villagers to resist the government and hinder official duties activities".

III. THE DECISION

[11] The RPD accepted that the Chinese government had expropriated the Applicant's property. It also accepted that, with other villagers, the Applicant had approached the town government and had expressed dissatisfaction with the compensation.

[12] However, the RPD's principal conclusion was that the Summons was not genuine and that the Applicant was not wanted by the police. There were three reasons for this conclusion:

1. The Summons was not followed by a coercive Summons when the Applicant failed to report to the police.
2. The Summons was not referred to in the Applicant's PIF and his explanation that he forgot to mention it was not reasonable.
3. Given that he feared being found and arrested by the police, it was not credible that the Applicant would have attended at the US Consulate and left China on his own passport if a genuine Summons had been outstanding.

[13] The RPD also found it of concern that the Applicant did not mention his use of a smuggler in his PIF and incredible that having been told that he had left China the PSB would continue to look for him after 7 years.

IV. THE DETERMINATIVE ISSUE

[14] The Applicant says that the decision is unreasonable because the RPD failed to address the contents of the Summons, which in his submission shows that he is of the interest to police because of his political opinion and that he is a wanted man.

[15] The Applicant is correct when he states that the RPD did not mention the content of the Summons in the Decision. However, in my view it is clear from the Decision and from the transcript that the RPD was aware of the content of the Summons and was concerned that it was a fraudulent document created to support the Applicant's refugee claim. This is why the RPD considered at length whether it made sense on the facts that a legitimate Summons had been issued. It considered that it was not mentioned in the PIF, had not been followed up by a coercive Summons and did not cause the Applicant to avoid the US Consulate and the airport.

V. CONCLUSION

[16] In my view, the Decision discloses a rational analysis. Although it is not always written in clear terms, the RPD's conclusions and reasons are discernable. The conclusions are also reasonable and mean that the Applicant did not establish that the Summons is genuine. Since he is not a wanted man, his claims under both sections 96 and 97 of the IRPA fail and the other issues he raised need not be considered.

VI. CERTIFICATION

[17] No question was posed for certification for appeal.

JUDGMENT in IMM-3136-19

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3136-19

STYLE OF CAUSE: JINTU CAO (A.K.A. JIN TU CAO) v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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