

Federal Court



Cour fédérale

**Date: 202202231006**

**Docket: IMM-2564-21**

**Citation: 2022 FC 250**

**Ottawa, Ontario, ~~February 23~~ October 6, 2022**

**PRESENT: The Honourable Mr. Justice Pentney**

**BETWEEN:**

**XIJIN SONG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**AMENDED JUDGMENT AND REASONS**

[1] The Applicant, Xijin Song, seeks judicial review of the decision of the Refugee Appeal Division (RAD), which dismissed his refugee claim. He is a citizen of China, who claims refugee status because he says he is a genuine practitioner of Falun Gong and therefore faces risk of persecution in China. The RAD dismissed his appeal because they found the Applicant lacked credibility.

[2] The Applicant argues that the RAD's decision is unreasonable because the RAD Member conducted an improper analysis of his claim that he is an adherent of Falun Gong. He says that

the RAD failed to take into account that he has only five years of education and was a farmer in China. Because the RAD failed to give this sufficient weight, its assessment of his knowledge of his faith cannot be sustained.

[3] I am not persuaded.

[4] The standard of review that applies is reasonableness, in accordance with *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. From this, several principles follow: the party challenging the decision bears the onus of demonstrating that it is unreasonable (para 100); the review must focus on the reasons for the decision, assessing whether they reflect the factual and legal matrix that set the frame for the decision, and also whether they show how the decision was reached without any significant flaws in the reasoning (paras 88, 101). For the reviewing court to intervene, the challenging party must satisfy the court that there are “sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (para 100).

[5] The crux of the RAD’s decision is reflected in the following passage:

[9] I find that the [Applicant’s] knowledge of Falun Gong was superficial because his evidence was vague and, at times, not accurate. There was insufficient evidence of a spiritual and/or of an emotional connection (or another type of connection) to find that the [Applicant] is a genuine adherent to Falun Gong practices. Further, the documentary evidence he provided was not sufficient to address the concerns with the flaws in the evidence.

[6] The Applicant argues that the RAD's conclusion is unreasonable, because he did answer the questions about the beliefs and practices of Falun Gong, and his answers reflect his capacities as an individual. He submits that the RAD held him to an unjustifiably high standard, and that it failed to consider the core question, which is the sincerity of his beliefs.

[7] The case law on this question makes several things clear. First, in assessing whether a claimant's beliefs are genuine, a decision-maker is permitted to test this "with reference to the person's familiarity with the dogma or creed involved" (*Zhu v Canada (Citizenship and Immigration)*, 2008 FC 1066 at para 17). Second, it is open to a decision-maker "to disbelieve a claimant whose knowledge does not correspond to the duration and depth of [their] religious activities." (*Jia v Canada (Citizenship and Immigration)*, 2016 FC 33 at para 17; see also *Liang v Canada (Citizenship and Immigration)*, 2022 FC 115 at para 31, citing *Gao v Canada (Citizenship and Immigration)*, 2021 FC 271). Third, when inquiring into a claimant's knowledge of the faith, it is important that the questioning not become a kind of religious "trivia quiz" test, and the focus must remain on the sincerity of the person's belief (*Qi v Canada (Citizenship and Immigration)*, 2020 FC 400 at para 19; see also *Wu v Canada (Citizenship and Immigration)*, 2021 FC 591 at para 19).

[8] In my view, the RAD followed the guidance set out in the jurisprudence and did not fall into any of the errors listed above. The RAD conducted an assessment of the genuineness of the Applicant's claim that he was a Falun Gong adherent, with reference to his knowledge of the basics of the doctrine, his reasons for joining and practicing the faith, and the documentary evidence he produced in support of his claim. This is what the jurisprudence requires.

[9] The RAD acknowledged the Applicant's limited education, and that he was nervous while giving his testimony, but found that this did not explain the flaws in his testimony. In assessing this, the RAD noted that the Applicant had testified that he had been a practitioner for approximately two years and had read the Zhuan Falun as well as the Falun Dafa. He also testified that while in China he studied the Zhuan Falun twice per month, and that he had attended group practice with Falun Gong adherents more than 30 times. The RAD based their assessment of his knowledge on the Applicant's own evidence of the nature and extent of his practice, and this is what reasonableness demands.

[10] Further, the RAD did not base this finding on the Applicant's knowledge of doctrine alone; the Member also considered the Applicant's evidence about why he began the practice and what it meant for him. The RAD accepted that the Applicant has started the practice because he experienced difficulties due to bronchitis, after a friend introduced him to Falun Gong as a way of overcoming this condition. The RAD also accepted that the Applicant had participated in exercises with Falun Gong practitioners. However, the RAD found that he had failed to demonstrate the type of emotional or spiritual connection of an adherent of Falun Gong. The Applicant testified that Falun Gong helped his sickness and brought benefits to other people, but he did not demonstrate a sufficient understanding of, or belief in, its spiritual aspects. Thus, the RAD reasonably concluded that the Applicant had failed to meet the core requirement of this ground of protection, which pertains to spiritual practices.

[11] In addition, the RAD considered the documentary evidence the Applicant produced to bolster his claim that he was a Falun Gong adherent. It found the document that the Applicant claimed the Public Security Bureau had left at his house after he fled to be a low-level request

that he attend at court, and that this type of document is regularly ignored by Chinese citizens. The Member also found there were reasons to doubt the authenticity of the document. Furthermore, the RAD found that the letter provided by a Falun Gong adherent and the photographs the Applicant provided were not sufficient to demonstrate that he was a genuine adherent to the faith. The Applicant did not seriously dispute these conclusions.

[12] Overall, the Applicant's objections relate to the RAD's weighing of the evidence, but it is clear from a long line of authorities that are confirmed by *Vavilov* at para 125 and subsequent jurisprudence, that it is not the role of a reviewing court to re-weigh the evidence.

[13] The RAD's decision is reasonable. It is based on the facts that the Applicant presented, and it follows the appropriate legal principles. The RAD's reasoning is clear and well supported by the reasons provided. This is all that reasonableness requires.

[14] For all of these reasons, the application for judicial review is dismissed.

[15] There is no question of general importance for certification.

**JUDGMENT in IMM-2564-21**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There is no question of general importance for certification.

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"William F. Pentney"

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2564-21  
**STYLE OF CAUSE:** XIJIN SONG v THE MINISTER OF CITIZENSHIP  
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