

Federal Court



Cour fédérale

Date: 20230928

Docket: IMM-4785-21

Citation: 2023 FC 1308

Ottawa, Ontario, September 28, 2023

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

SHENGXIN ZHANG

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a Refugee Appeal Division [RAD] decision dated June 17, 2021, which upheld a Refugee Protection Division [RPD] decision that the Applicant is not a Convention refugee or a person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[2] The Applicant is a citizen of China claiming refugee status on the basis of her Christian faith. The RAD dismissed her application on the basis that, on balance, she had not established that she was a genuine Christian, given her significant lack of knowledge of Christianity.

[3] The Applicant seeks judicial review of that decision. Having considered the record before the Court, including the parties' written and oral submissions, and the applicable law, the Applicant has failed to discharge her burden and demonstrate that the RAD's decision is unreasonable. For the reasons that follow, this application for judicial review is dismissed.

II. Factual Background

[4] Shengxin Zhang [the Applicant] is a forty-eight year-old woman from China. She arrived in Canada in November 2018 and made a refugee claim, alleging that she will face persecution in China due to her Christian faith.

[5] In the narrative attached to her Basis of Claim form, the Applicant states that she became a Christian in January 2018. At that time, she believed that her life was meaningless. Her relationship with her mother-in-law was fraught, and she quarrelled often with her husband. However, her friend introduced her to Christianity, and the Applicant became a member of an underground Church with ten believers (including her). After joining, the Applicant's life gained meaning and her relationships improved.

[6] In September 2018, the Applicant reports that the underground Church was shut down because the organizer was scared of increased surveillance on illegal religious services.

[7] Since arriving in Canada, the Applicant states that she joined the Living Stone Assembly Church, reads the Bible daily and attends Church every Sunday.

III. The Decision Under Review

A. *The RPD Decision*

[8] On August 7, 2020, the RPD denied the Applicant's refugee claim. It found that, on balance, she did not attend a Church in China and she was not a genuine Christian. Since she was not a Christian, the RPD also determined that she was not a *sur place* refugee and would not be personally subjected to risk upon her return to China. The RPD's decision turned on credibility findings and her knowledge of Christianity.

[9] The Member asked the Applicant to explain what happened at a typical underground Christian Church service in China. The Applicant said that they prayed and that the organizer would read and discuss the Bible. The Member then asked whether they sang hymns, gave a benediction, and participated in collection. As for the singing, she confirmed that they sang in low voices. When asked why she did not include that information when asked initially, she said that it was all very low-key. She confirmed that there was a benediction, and stated that she was nervous and did not understand the question. As for collection, she stated that she forgot to say.

[10] The Member was not satisfied with her explanations, especially since the Applicant was told to inform the Member if she did not understand a question. In the Member's opinion, if the Applicant attended the underground Church for seven months, she should have been able to

describe a typical underground Christian Church service in detail. However, she was not able to do so.

[11] The Member also found that the Applicant was not a genuine Christian. Specifically, she knew about the significance of baptism; God in three persons; where Jesus was born; and communion. However, she could not explain a story in the Old Testament other than creation; she could not say where Jesus died; whether the Sunday before Easter was Good Friday; the difference between the Old and New Testament; or state a parable.

[12] The Member noted that the RPD should be careful about assessing religious knowledge, but found that her knowledge was not commensurate with her sophistication and reported time of study, i.e. reading the Bible every day since 2018 and attending a Canadian Church for over a year, as she alleged.

B. *The RAD Decision*

[13] The RAD confirmed the RPD decision. As for the Applicant's ability to describe a typical underground Church service in China, the RAD reviewed the transcripts and found that the questions were not confusing and that the Applicant should have been able to thoroughly describe a typical underground Church service in China.

[14] As for her faith, the RAD found that the Applicant was lacking significantly in her knowledge, since she testified that she had been studying the Bible daily for two years with weekly Bible studies at Church. Rejecting the Applicant's alleged unsophistication, the RAD

noted that she was literate and had a middle-school education. Ultimately, the RAD held that the RPD noted the constraints regarding religious knowledge and had not erred in the application of that criteria.

[15] The RAD also dismissed the Applicant's *sur place* claim. The Applicant is not contesting that part of the decision.

IV. Issues and Standard of Review

[16] The sole issue in this judicial review is whether the RAD reasonably held that the Applicant was not credibly of Christian faith.

[17] The standard of review in this case is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25). To avoid judicial intervention, the decision must bear the hallmarks of reasonableness—justification, transparency and intelligibility (para 99). Reasonableness review is not a “rubber-stamping” exercise; it is a robust form of review (para 13). A decision may be unreasonable if the decision maker misapprehended the evidence before it (paras 125–126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (para 100).

[18] In particular, reviewing courts must afford significant deference to credibility findings. The RPD is uniquely situated to assess credibility, and findings of credibility should not be overturned unless they are “perverse, capricious or made without regard to the evidence” (*Kabir v Canada (Citizenship and Immigration)*, 2023 FC 1123 at para 34; *Singh v Canada (Citizenship*

and Immigration), 2023 FC 1106 at para 19; *Gori v Canada (Citizenship and Immigration)*, 2022 CanLII 100081). However, credibility findings are not “immune from review,” and they must be “clearly articulated and justified on the evidence” (*Azenabor v Canada (Citizenship and Immigration)*, 2020 FC 1160 at para 6).

V. Analysis

A. *The RAD reasonably concluded that the Applicant was not credibly of the Christian faith*

[19] The Applicant argues that the RPD erred by repeatedly prompting or asking the same question, or putting additional scenarios to the Applicant, for her to provide additional details of a typical underground Church service in China. Further, the Applicant argues that her elaboration on her initial answer in response to the follow-up questions could not lead to the conclusion that she was not credible. For example, the RPD asked the Applicant to describe a “typical” Sunday service, to which the Applicant responded that they gathered “every Sunday night.” The RPD then repeated the question and asked a series of other questions to which the Applicant responded that they prayed together, the organizer would read and discuss the Bible, hymns were sang, a Benediction was given, and there was a collection of money.

[20] The Applicant submits that, similarly, the RAD erred in rejecting the Applicant’s credibility and in finding that she was not a member of an underground Christian Church in China. The fact that the Applicant supplemented her response following the RPD’s questions does not necessarily indicate that she was not forthcoming or credible (*Zeng v Canada*, 2021 FC 318). The RAD failed to apply the presumption of truthfulness and give the Applicant the benefit

of the doubt (*Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302).

[21] The Applicant also submits that the RAD erred in imposing “an unrealistically high standard or engag[ing] in a microscopic analysis” of her understanding of the Christian faith (*Gao v Canada*, 2021 FC 490 at para 20 [*Gao*]; *Dong v Canada (Minister of Citizenship and Immigration)*, 2010 FC 55 at para 20; *Lin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 288 at para 61; *Huang v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1002). The Applicant argues that the RAD ought to have assessed whether she was genuine in her beliefs, rather than focusing on the correctness of her answers. Indeed, it is the sincerity of her practice of Christianity that is important, and not the soundness of her theology or her religious knowledge (*Zhang v Canada (Minister of Citizenship and Immigration)*, 2012 FC 503 at para 16; *Ren v Canada (Minister of Citizenship and Immigration)*, 2015 FC 1402 at para 18; *Liang v Canada (Minister of Citizenship and Immigration)*, 2017 FC 1020 at para 18).

[22] The Applicant submits that she was able to respond correctly to some questions about Christianity, including the concept of the Trinity, where Jesus was born, baptism and holy communion. In the Applicant’s view, those answers should have been sufficiently credible to meet her burden of proof. Instead, the RAD rigidly focused on the Applicant’s ability to answer certain trivial questions.

[23] The Respondent submits that the RAD did not impose an unrealistically high standard of religious knowledge or rigidly focus on trivial questions. It is reasonable for the RAD to expect a

rudimentary knowledge of one's faith, and the RAD is justified to expect an applicant to elaborate on the basic tenets of the faith (*Huang v Canada (Citizenship and Immigration)*, 2019 FC 94 at para 23; *Zheng v Canada (Citizenship and Immigration)*, 2019 FC 731 [*Zheng*] at paras 17–18; *Gao* at paras 20, 22; *Siline v Canada (Citizenship and Immigration)*, 2022 FC 490 [*Siline*] at para 9; *Hou v Canada (Citizenship and Immigration)*, 2012 FC 993 [*Hou*] at para 55; *Bouarif v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 49 at para 10 [*Bouarif*]; *Li v Canada (Citizenship and Immigration)*, 2015 FC 1273 at para 21).

[24] In the Respondent's view, the RAD acknowledged the Applicant's limited knowledge, but noted numerous shortcomings that demonstrated that she was not genuine in her belief. The Respondent notes that, despite stating that she was reading the Bible daily and attending Church weekly, the Applicant could not answer specific objective questions that ought to be reasonably known by Christians. For example:

1. The Applicant identified the Sunday before Easter as Good Friday;
2. The Applicant could not recount a single story from the Bible;
3. The Applicant could not name any of the books in the Bible;
4. The Applicant could not provide any meaningful explanation about what was contained in the Old Testament;
5. The Applicant could not recount a parable other than generally saying that Jesus saved a lot of people and healed the deaf and blind;
6. The Applicant did not know the difference between the Old and the New Testament; and
7. The Applicant could not name the first four books of the New Testament nor could she state a parable from it.

[25] The Respondent submits that the RPD asked clear questions that flowed appropriately from the Applicant's answers. The RAD also considered the deficiencies in the Applicant's knowledge of her faith and reasonably determined that the Applicant's knowledge of Christianity was not commensurate with her alleged practice of Christianity, including her alleged extensive practice of reading the Bible regularly since 2018.

[26] The Respondent submits that the RAD was entitled in the circumstances to draw negative credibility findings from the Applicant's inconsistent and evolving testimony and lack of credibility on a key aspect of her claim (*Mahmoud v Canada*, 2016 FC 1020; *Singh v Canada*, 2023 FC 724).

[27] In my view, decision makers can rely on rudimentary knowledge and ask objective questions about religion to gauge the genuineness of a claimant's faith. However, as argued by the Applicant, the RAD cannot "adopt an unrealistically high standard or engage in a microscopic analysis" (*Gao* at para 20). The bar of religious knowledge is low for refugee claimants, and claims are based on sincerity of belief and not whether the beliefs are theologically sound (*Zheng* at paras 16–17). This being said, the RAD is better positioned to assess evidence and make findings of fact, and the Court should be hesitant to overturn its findings without a disregard for evidence or misapprehension of the facts (*Siline* at para 9, citing *Hou* at para 55). Ultimately, a claimant must be able to demonstrate a "basic" understanding of the religion (*Siline* at para 9, citing *Bouarif* at para 10).

[28] In this case, I acknowledge that the decisions cited by the Applicant stand for the principle that the RPD and RAD cannot apply a high standard of religious knowledge to assess the Applicant's understanding of her religion. However, I also acknowledge that the cases cited by the Respondent equally stand for the principle that some reasonable and objective rudimentary knowledge must be demonstrated, and that it is acceptable for the RPD and RAD to prod an applicant's knowledge in determining the credibility of the claim.

[29] In the circumstances of this case, in my view, the RAD properly applied the two demarcating lines of jurisprudence and justified why it dismissed the Applicant's credibility. The RAD's decision therefore "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Vavilov* at para 86).

[30] In my view, the RAD's reasons relating to the Applicant's credibility in her assertion of being Christian are reasonable. The Applicant has failed to discharge her burden to demonstrate that the RAD's decision is unreasonable. The RAD's reasoning as to why the Applicant is not credible is intelligible, transparent and justified (*Vavilov* at paras 15, 98). The RAD's findings are factual, based on the evidence and the arguments presented by the parties. I therefore find no basis upon which to intervene.

[31] As argued by the Respondent, and I agree, the RAD's decision is essentially that the Applicant's knowledge of the Christian faith is not commensurate with her alleged practice.

[32] On the issue of her description of a typical underground Church service in China, the RAD noted that the Applicant had attended almost 40 services in China but was not able to thoroughly explain with particularity what occurred during those Church services. As noted above, the RPD asked the question as to what was a “typical service.” The response was only that “we gather every Sunday night.” The RAD was entitled to rule that the response undermined the Applicant’s credibility, especially because the Applicant required several follow-up and leading questions to clarify and bolster her original response. The RPD member had specifically told the Applicant to alert her if the Applicant did not understand a question. The Applicant undermined her credibility when she failed to provide fulsome answers to the RPD’s questions.

[33] On the issue of her knowledge of Christianity, as noted above, the RAD observed that the Applicant indicated reading the Bible daily since 2018 and attending weekly Bible classes since November of 2018, yet was not able to respond to some basic, objective questions about the Christian religion posed by the RPD. The RAD’s finding that the Applicant’s failure on these two issues undermined her credibility is reasonable. The RAD did not “adopt an unrealistically high standard or engage in a microscopic analysis” (*Gao* at para 20). Instead, the RAD reasonably assessed the rudimentary knowledge of the Applicant’s faith (*Wang v Canada (Citizenship and Immigration)*, 2018 FC 668 at paras 29–39).

[34] The RAD was entitled, in the circumstances, to reject the Applicant’s credibility on her allegation of Christian faith. It was reasonable for the RAD to expect a rudimentary knowledge of the Applicant’s faith and use objective knowledge to assess the sincerity of the Applicant’s allegations. As stated by Justice Bell in *Zheng* at paragraph 18:

The sincerity of Mr. Zheng's beliefs cannot be divorced from his lack of basic knowledge of Falun Gong. The RPD, through its questioning of Mr. Zheng was not seeking an epistemological evaluation of his religious knowledge. It is reasonable to conclude that his answers to some basic questions would influence an assessment of his sincerity. [...] Furthermore, it would be erroneous to suggest that subjective sincerity cannot be evidenced by objective knowledge. If tribunals are prevented from using objective knowledge to assist in the determination of sincere beliefs, I rhetorically ask, how is a tribunal or court to assess the veracity of someone saying: "I am Falun Gong", "I am Christian", "I am Muslim", "I am Jewish" or any one of hundreds of other faith groups across the planet. While I am not suggesting that objective knowledge is determinative of the question of sincerely held beliefs, it is certainly an evidentiary factor to be considered by the RPD. As such, it is a factor which this Court should avoid re-assessing.

[35] In doing so, the RAD did not err by failing to assess the genuine or sincerity of the Applicant's belief and instead assess whether those beliefs were theologically sound (*Gao v Canada (Minister and Citizenship)*, 2015 FC 1139 at para 26; *Zheng* at paras 16–17). Even if it is the sincerity of the Applicant's practice of Christianity that is important and not the soundness of her theology or her religious knowledge, the Applicant still failed to discharge her burden to satisfy the RAD, on the basis of her responses, that her practice of the Christian faith was genuine. The RAD was justified in this case to expect more from the Applicant, given her alleged practice, and ask her to elaborate on the basic tenets of her faith.

[36] The Applicant clearly disagrees with the RAD's findings of fact on her Christian faith. Unfortunately, her request is essentially that the Court performs an examination of the evidence *de novo* and re-weighs the RAD's evidentiary assessment. Unfortunately, this is not the Court's role on judicial review (*Wu v Canada (Citizenship and Immigration)*, 2023 FC 1071 at para 27; *Vavilov* at para 125).

VI. Conclusion

[37] The RAD's decision is reasonable. The judicial review is dismissed.

[38] The parties have not proposed any question for certification and I agree that none arise.

JUDGMENT in IMM-4785-21

THIS COURT'S JUDGMENT is that:

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

"Guy Régimbald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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