

Federal Court



Cour fédérale

Date: 20240708

Docket: IMM-4314-23

Citation: 2024 FC 1068

Ottawa, Ontario, July 8, 2024

PRESENT: The Honourable Madam Justice Aylen

BETWEEN:

HONG PHUONG HA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, a citizen of Vietnam, alleges that as a Roman Catholic she is at risk of being arrested and beaten by the Vietnamese authorities for practising her faith. She seeks judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada dated March 15, 2023, which dismissed her appeal of the decision of the Refugee Protection Division [RPD]. The RAD found that the Applicant is neither a Convention refugee nor a person in need of protection within the meaning of sections 96 and 97 of the *Immigration and Refugee*

Protection Act, SC 2001, c 27. The determinative issue was the absence of a well-founded fear of persecution.

[2] The Applicant is a member of an unregistered church in Ho Chi Minh City, Vietnam. She claimed she was introduced to Catholicism by her sister in June of 2018, and began regularly attending church services in September of 2018. The Applicant also attended Catholic church services in Canada, while accompanying her daughter who was studying in Canada, in August of 2019.

[3] When the Applicant returned to Vietnam in December of 2019, she alleges that the local police came to her church while she was in attendance and told the congregants to register with the government, which her church refused to do. A week later, the Applicant alleges that police officers came with thugs, assaulted the congregants and damaged the church building which was eventually demolished. As a result of these events, and so as not to attract the attention of the authorities, the Applicant asserts that the church members decided to have small group (10-15 people) services in other churches.

[4] The Applicant returned to Canada in February of 2020. She alleges that in March of 2020, her son was interrogated by the police at their home in Vietnam regarding her religious activities abroad. She alleges that the police instructed her son to bring her back to surrender herself to the authorities. The Applicant alleges that her sister advised her in April of 2020 that four members of their house church were arrested, beaten and detained for a day and, as a result, the house church

stopped holding services. In light of these events, the Applicant claims that both her son and sister advised her against returning to Vietnam.

[5] In July of 2020, the Applicant made a claim for refugee protection. In October of 2022, the RPD rejected the Applicant's claim, finding that the Applicant had not credibly established that she is a Roman Catholic or that she is wanted by the Vietnamese police. Even if she is a Roman Catholic, the RPD found that the objective evidence did not support that she would be persecuted because of her faith. The Applicant appealed to the RAD.

[6] On March 15, 2023, the RAD upheld the RPD's decision to deny the Applicant's claim on the basis that she is neither a Convention refugee nor a person in need of protection. While the RAD agreed with the Applicant that the RPD erred in its assessment of her religious identity, the RAD found that the evidence did not support the Applicant's claim that she is wanted by the Vietnamese police. Given the Applicant's profile, the RAD also found that the Applicant could freely practice Catholicism in Vietnam.

[7] The sole issue for determination is whether the RAD's decision — that the Applicant does not face religious persecution in Vietnam — was reasonable.

[8] The parties agree and I concur that the applicable standard of review is that of reasonableness. When reviewing for reasonableness, the Court must take a "reasons first" approach and determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified [see *Mason v Canada (Citizenship and*

Immigration), 2023 SCC 21 at paras 8, 59]. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adeniji-Adele v Canada (Citizenship and Immigration)*, 2020 FC 418 at para 11].

[9] The RAD's decision was premised on two key findings — namely: (i) the Applicant had not credibly established that she was wanted by the Vietnamese authorities; and (ii) the Applicant was not at risk as a Catholic and could freely practice her faith in an unregistered church if she were to return to Vietnam. The Applicant asserts that the RAD erred in making both of these determinations by (i) ignoring evidence related to the events that transpired at her house church; (ii) failing to properly consider her son's letter; and (iii) failing to properly consider the country condition evidence that (a) Vietnamese authorities often invoke vague allegations and spurious political charges against religious adherents as a means of limiting religious freedoms, even against individuals who are not objectively politically active, and (b) congregants at unregistered Catholic churches face serious restrictions on their religious freedoms.

[10] Having considered the evidence before the RAD and their reasons for decision, I am satisfied that the Applicant has failed to demonstrate that either of the RAD's key findings were unreasonable.

[11] The RAD did acknowledge that there is some objective documentary evidence demonstrating that the Vietnamese government has engaged in systematic violations of religious freedom. However, the RAD noted that the specific circumstances associated with the Applicant did not suggest that she is at risk of being targeted for persecutory treatment, or that she will be unable to practice her religion freely if she returned to Vietnam. In considering the profile of the Applicant within the context of the objective documentary evidence, the RAD stated that the risk (of persecution) “depends on the views of the group toward the state, the state’s view of the group, and the activities of the person.” In this case, the Applicant is not politically active, she worshipped in a church and briefly in a unregistered church, she resides in a large urban city, she is a member of the ethnic majority, her group services consisted of prayer and talking about Jesus and her group held no animus towards the state. Accordingly, I find the RAD reasonably determined that the Applicant’s profile and personal circumstances do not indicate a risk of religious persecution. Any suggestion by the Applicant that the Vietnamese police could invoke vague allegations and spurious political charges against her is speculative and not supported by the evidence, which, as noted below, does not credibly establish that she is wanted by the Vietnamese police on the basis of her religious beliefs.

[12] I also do not accept the Applicant’s argument that the RAD’s determinations were made without regard to the evidence. The RAD’s reasons demonstrate that they examined the evidence in its entirety, including the letter from the Applicant’s son, and reasonably concluded that there was insufficient evidence to establish that the Applicant would face a serious possibility of persecution. I agree with the Respondent that the Applicant is asking this Court to reweigh the

evidence that was before the RAD and arrive at a different conclusion, which is not the Court's role on an application for judicial review [see *Vavilov*, *supra* at para 125].

[13] I also see no error in the RAD's determination that the Applicant failed to credibly establish that she is wanted by the Vietnamese police and, in particular, that the police are aware the Applicant is a member of an unregistered church given that: (i) the son's letter was vague in terms of the basis for and frequency of the police's attendance at their home; (ii) the Applicant's own evidence was that she fled the church when the police arrived in December of 2019 and thus, she was not identified or detained by the police; and (iii) there was no evidence of a summons or arrest warrant issued against her. As such, I am satisfied that the RAD's finding that the Applicant provided insufficient evidence to establish that she faced a forward-looking risk of persecutory treatment if she returned to Vietnam was reasonable.

[14] As the Applicant has not demonstrated that the RAD's decision was unreasonable, the application for judicial review shall be dismissed.

[15] The parties proposed no question for certification and I agree that none arises.

JUDGMENT in IMM-4314-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The parties proposed no question for certification and none arises.

“Mandy Ayles”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4314-23

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