

IMM-936-96

OTTAWA, ONTARIO, THIS 27th DAY OF MARCH 1997

PRESENT: THE HONOURABLE MR. JUSTICE YVON PINARD

**BETWEEN:**

**PATRICE BEGNE,**

Applicant,

- and -

**MINISTER OF CITIZENSHIP AND IMMIGRATION,**

Respondent.

**ORDER**

The application for judicial review of a decision of the Refugee Division dated February 20, 1996, holding that the applicant is not a Convention refugee, is dismissed.

Judge

Certified true translation

C. Delon, LL.L.

**BETWEEN:**

**PATRICE BEGNE,**

Applicant,

- and -

**MINISTER OF CITIZENSHIP AND IMMIGRATION,**

Respondent.

**REASONS FOR ORDER**

**PINARD J.:**

This is an application for judicial review of a decision of the Immigration and Refugee Board (Refugee Division) dated February 20, 1996, determining that the applicant is not a Convention refugee.

It appears that the Board's decision is based quite simply on the fact that the applicant's evidence was not credible:

[TRANSLATION]

We place only little weight on the exhibits filed in respect of the alleged incidents, most of them being photocopies which are not very convincing and raise many suspicions as to their authenticity.

In addition, we find his testimony not to be trustworthy. On this point, we base our decision on the Kamga incident. In our view, for two students with the same patronymic to have died in the same place in the same way falls into the realm of science fiction.

At the very most, we might admit that such a coincidence could occur if the claimant and the exhibits were credible.

With respect to credibility and assessment of the facts, it is not for me to substitute my discretion for that of the Board where, as in this case, the applicant has failed to establish that the Board based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it. The question is not whether I would have exercised my discretion differently, but whether the Board ignored the evidence before it or acted perversely or capriciously. Having regard to all of the evidence, I cannot conclude that the assessment of the facts and of credibility made by the specialized tribunal in question was patently unreasonable.<sup>1</sup>

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<sup>1</sup>see *Sheikh v. Canada*, [1990] 3 F.C. 238, at p. 244; and *Rajaratnam v. M.E.I.* (Dec. 5, 1991), A-842-90 (F.C.A.).

Accordingly, the application must be dismissed.

Moreover, having regard to the specific facts of this case and the reasons of the Board, I cannot accept the suggestion that the question of the probative value of a foreign judgment could be a matter for certification in this case under subsection 18(1) of the *Federal Court Immigration Rules, 1993*.<sup>2</sup>

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<sup>2</sup>see *Liyanagamage v. Canada* (1994), 176 N.R. 4 (F.C.A.).

O T T A W A  
March 27, 1997

Judge

Certified true translation

C. Debn, LL.L.

FEDERAL COURT OF CANADA  
TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO: IMM-936-96

PATRICE BEGNE v. MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: MARCH 11, 1997

REASONS FOR ORDER OF PINARD J.

DATED: MARCH 27, 1997

APPEARANCES:

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