

Date: 20080121

Docket: IMM-743-07

Citation: 2008 FC 74

Toronto, Ontario, January 21, 2008

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

ELSIE NCHONG-ACHERE AKO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] The Applicant in the present Application seeks refugee protection on the basis of a well founded fear of persecution in Cameroon. The Applicant's prospective fear of return to Cameroon is based on her membership in the Southern Cameroon National Council (SCNC). Evidence on the record before the Refugee Protection Division (RPD) establishes that SCNC members are "mistreated" by the police in Cameroon. Therefore, the most essential factor for determination before the RPD in assessing the claim was the membership issue because the mistreatment could very well form the basis of an objective fear that, should the Applicant return to Cameroon, there is more than a mere possibility she will be persecuted.

[2] In the evidence placed before the RPD, the Applicant swears to her membership in the SCNC, and to corroborate this testimony, produced letters from her former lawyer in Cameroon and

the Vice-President of the organization itself. The PRD found that the Applicant's claim is "bogus". As this statement, in effect, constitutes the decision under review, I find it is patently unreasonable for three primary reasons. First, the PRD failed to make any credibility finding with respect to the Applicant's testimony. Second, the RPD's focus on the documentary evidence completely neglects to consider what the corroborating documents say; rather, the RPD's decision is based on a belief of what the documents should say and do not say. In order to avoid reviewable error, the RPD was required to consider the evidence on the record; this the RPD failed to do. Third, the Applicant's SCNC membership card and a medical certificate, both tendered by her as crucial evidence in support of her claim, were "given no weight in terms of being prohibitive of the claim" because of the "untrustworthy corroborating evidence". In this respect, the RPD is in error for not considering the crucial evidence in its own right.

[3] As a result, I find the RPD's decision is made in reviewable error.

ORDER

Accordingly, I set aside the RPD's decision and refer the matter back to a differently constituted panel for re-determination.

"Douglas R. Campbell"

Judge

FEDERAL COURT

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-743-07

STYLE OF CAUSE: ELSIE NCHONG-ACHERE AKO V. THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 21, 2008

**REASONS FOR ORDER
AND ORDER:** CAMPBELL J.

DATED: January 21, 2008

APPEARANCES:

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