

Date: 20080219

Docket: IMM-3027-07

Citation: 2008 FC 215

Ottawa, Ontario, February 19, 2008

Present: The Honourable Mr. Justice Simon Noël

BETWEEN:

DOUNGOUS HASSANE

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review of a decision by the Refugee Protection Division (RPD) dated July 3, 2007, which concluded that the applicant is neither a “Convention refugee” nor a “person in need of protection”.

I. Issue

[2] Did the RPD err in fact or in law in determining that the applicant lacked credibility?

[3] For the following reasons, the application for judicial review will be dismissed.

II. Facts

[4] A citizen of Chad, the applicant alleges that he operated a store selling computer equipment from 2004 to 2006. He travelled two or three times a year to Cameroon, Nigeria and Benin to purchase products to resell in his business.

[5] On one of these trips to Cameroon on February 15, 2006, the applicant met some residents of Chad; he talked to them and did business with them as he had done on previous trips.

[6] On February 23, 2006, soldiers burst into the claimant's place of business without explanation. The soldiers beat the applicant and destroyed his store. They also seized business documents and took him to the Agence nationale de sécurité (ANS) prison, where he was tortured and accused of spying for the opposition and of providing information about President Idriss Déby to opponents of the Chad government on his business trips in West Africa.

[7] On March 25, 2006, with the help of his uncle, the applicant managed to escape from prison and take refuge at the home of a friend of his uncle in Doubali. The ANS soldiers searched his parents' home and gave the applicant's mother an order to appear. Two days later, the soldiers gave his mother an arrest warrant for the applicant.

[8] He obtained a student passport in 2005, and his uncle helped him obtain a student visa for the United States. He left Chad on June 13, 2006. After staying 24 days in the United States, the

applicant arrived in Canada on July 7, 2006, and applied for refugee protection the same day. The refusal of that application is the subject of this judicial review.

III. Decision under review

[9] After assessing the applicant's testimony and analyzing the documentary evidence in the record, the RPD found that the applicant's allegations were not credible. The RPD determined that the applicant was neither a member of an opposition political party nor was he revealing information that could be harmful to the President. Furthermore, the RPD doubted that the applicant had operated his business until 2006 since he only had documents for 2004. Logically, it would have been easier for him to obtain recent documents than documents that were two years old. Last, the RPD dismissed the applicant's explanations about his student passport, stating that that type of passport would not have been helpful to him in the circumstances since he was a businessman. The RPD concluded that this story was a complete fabrication.

IV. Analysis

[10] The standard of review of an applicant's credibility is patent unreasonableness (see the Federal Court of Appeal decision in *Aguebor v. Canada (Minister of Employment and Immigration)*, [1993] F.C.J. No. 732 (QL), and, more recently, *Awad v. Canada (Minister of Citizenship and Immigration)*, [2008] F.C.J. No. 74, 2008 FC 63, at paragraph 8).

[11] The respondent argues that the RPD properly found that it was implausible that the authorities believed that the information the applicant was suspected of disseminating was dangerous for the President, given that this information was public and common knowledge. The RPD also noted that the applicant was not a member of an opposition political party and that his business activities did not allow him to obtain confidential information that might have been harmful to President Déby.

[12] The respondent also submits that the RPD was justified in drawing a negative inference as to the applicant's credibility because he failed to provide evidence to support one of the key elements of his refugee claim.

[13] In support of her position, the respondent invites the Court to follow Mr. Justice François Lemieux's comments in *Quichindo v. Canada (Minister of Citizenship and Immigration)*, [2002] F.C.J. No. 463, 2002 FCT 350 at paragraphs 26 and 28, as follows:

26 Counsel for the applicants argues that the panel erred in requiring that they give documentary corroboration, considering that Angola was under the yoke of a civil war, that the main claimant had lost all contact with her sisters since 1992 and that her parents had been killed.

...

28 A panel's finding on the lack of credibility of a claimant may be based in part on the absence of efforts to obtain documentary corroboration. (See *Muthiyansa v. M.C.I.*, [2001] F.C.J. No. 162, 2001 FCT 17 and *Sinnathamby v. M.C.I.*, [2001] F.C.J. No. 742, 2001 F.C.T. 473.

[14] Last, it is submitted that the RPD's comments about the student passport were not patently unreasonable under the circumstances.

[15] The applicant contends that the RPD misunderstood the claim; he says that it was the association with members of the Chad government on his trips that was central to his claim, not that he was a member of an opposition political party or that his activities enabled the applicant to be in possession of information that could be harmful to the Chad government.

[16] I do not believe him. It is clear from a careful reading of the entire decision and the transcript of the hearing that the RPD simply did not believe the applicant. The RPD questioned whether the business existed until 2006 and even doubted that the business was operational after 2004. If this is a finding, it goes without saying that the story about him meeting with opponents of the Chad government on his trips does not hold water. He could not have been travelling on business.

[17] The RPD found that the applicant's story lacked credibility.

[18] As for the argument that the invitation to submit the applicant's 2006 documents was not finalized, the burden of presenting the claim lies on the applicant. He did not provide documents to show that the business existed in 2006; he says the reason for this was that those documents were seized by the ANS and that he asked his family to obtain them but he had not received them.

[19] However, at the hearing, he said that he had all the documents but that they had not been sent to him. The applicant tried to blame the tribunal for not insisting that he provide the documents for 2006. I note that the burden lies on the applicant and it was his responsibility to do whatever was necessary to provide information to the RPD in a timely manner. This was not done and the RPD could draw negative inferences from the failure to do so.

[20] On this last point, the Court notes that the applicant obtained a passport designated as a student passport in 2005. The passport shows that trips were taken, and the evidence indicates that this designation facilitates travel. I should add that, according to the applicant's version, his uncle obtained an American visa for him to study in an academic institution in the United States. The RPD concluded that since the applicant owned a business, it was unlikely that a student passport could have been helpful under the circumstances. Considering all the evidence, this finding is not patently unreasonable.

[21] The RPD is responsible for assessing the credibility of a refugee claim. After reviewing the RPD decision and reading the transcript of the hearing together with the documents in support of the claim, the Court has no reason to question the RPD's findings. They are not patently unreasonable.

[22] The parties were invited to submit questions for certification, but they did not do so.

JUDGMENT

THE COURT ORDERS THE FOLLOWING:

- The application for judicial review is dismissed;
- There is no question to be certified.

Judge

Certified true translation
Mary Jo Egan, LLB

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3027-07

STYLE OF CAUSE: DOUNGOUS HASSANE and
MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: February 12, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** The Honourable Mr. Justice Simon Noël

DATED: February 19, 2008

APPEARANCES:

Valérie Jolicoeur FOR THE APPLICANT

Michèle Joubert FOR THE RESPONDENT

SOLICITORS OF RECORD:

Doyon & Associés FOR THE APPLICANT
Montréal, Quebec

John Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada
Montréal, Quebec