

Date: 20080723

Docket: IMM-3139-07

Citation: 2008 FC 897

Ottawa, Ontario, July 23, 2008

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

Ri Xin Ao

Applicant

and

The Minister of Citizenship and Immigration

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Ri Xin Ao (the Applicant) seeks Judicial Review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act) of a decision of the Immigration Refugee Board, Refugee Protection Division (the Board) of August 17, 2007 (the Decision) wherein it determined that he was not a Convention Refugee or a person in need of protection.

BACKGROUND

[2] The Applicant was born in Guangdong Province, People's Republic of China and, prior to coming to Canada, had lived his whole life in China. He worked as a chef in a fast food restaurant where the pay was low.

[3] In January 2006, the Applicant met a snakehead who went by the name "Mr. Joe". The snakehead told the Applicant that he could help him come to Canada and work here in exchange for 250,000 Chinese renminbi (approximately \$36,000 Canadian at that time).

[4] The Applicant claims that he borrowed money from a gang, the Hung Group Clique (the Gang). The Applicant alleges that he later discovered that the Gang was run by a high-ranking government official, Mr. Zhou.

[5] The snakehead made travel arrangements and provided a passport and other documents to enable the Applicant to fly to Canada. When he arrived on April 12, 2006, an accomplice of the snake-head collected his travel documents and told him to apply for refugee status. The Applicant made the application the next day.

[6] The Applicant alleges that after he arrived in Canada, the Gang threatened his family in China and told his family that they would kill the Applicant unless the loan was repaid. The

Applicant claims that, on one occasion, members of the Gang assaulted his parents, knocking his mother down and hurting her back.

[7] In January 2007, the Applicant's family moved to the Shanxi Province in China in order to escape the Gang. The Applicant reports that his family has not been harassed since the move. However, he says that Shanxi Province is very poor and that his family is having a hard time making a living there. He also claims that if he returned to China, the Gang would find him.

THE DECISION

[8] The Board found that the Applicant was not credible and it doubted that Mr. Zhou even existed much less that he would lend the Applicant money. The Board said:

The panel has to consider why such a powerful and intelligent person would want to lend money to someone with primary school education. In the panel's view, there would be better prospects for financial return on investment by picking someone with a higher education and greater ability to earn money, once he actually arrived in Canada. The panel also weighed the evidence of how likely was it that Mr. Zhou, the Chinese government officer with allegedly so much influence, would know such a modest person, like the claimant. In the view of the panel, the claimant's account lacks credibility and the panel does not believe Mr. Zhou exists in reality.

[9] The Board noted that the Applicant did not provide documents or other evidence to corroborate his testimony. In particular, he provided no documents, such as a hospital report, to support his claims that his mother had been hurt in an attack by the Gang. Further, the Applicant failed to provide any newspaper clippings or other evidence to show that Mr. Zhou existed. The

Board did not accept the Applicant's explanation that if he asked his family and friends to send documents he would put them in danger.

[10] The Board also held that the Applicant could rejoin his family and that, while economic prospects were limited where they lived, this fact did not entitle the Applicant to refugee status.

DISCUSSION

[11] The Applicant accepts that he was an economic migrant when he arrived in Canada. However, he says that because of the threats from the Gang after he arrived, he has become a person in need of protection under paragraph 97(1)(b) of the Act.

[12] The evidence was that the Applicant dealt with the Gang and only subsequently learned that Mr. Zhou ran the Gang. There was no evidence that Mr. Zhou made the decision to lend the Applicant money. Accordingly, the Board's discussion about why Mr. Zhou would not lend the Applicant money (quoted above) could not properly be used to impugn his credibility.

[13] Although, I agree with the Respondent that credibility findings were not well reasoned, the Applicant cannot succeed because the Board's finding that he has an internal flight alternative (IFA) is reasonable.

[14] The Applicant argues that the Board did not conduct an independent IFA analysis. Instead, the Board held that the Applicant's "reluctance to go and avail himself of an IFA puts in question of credibility of his claim". I agree with the Applicant that his reluctance to join his family in a poor province in China has no bearing on whether his allegations about the Gang are true.

[15] However, the Board did note that the Applicant's family had not been harassed since moving to Shanxi Province some six months prior to the hearing. The Board also noted that the Applicant's only objection to living in Shanxi Province was that it was a poor area. The Board was entitled to disregard the Applicant's unsubstantiated and speculative claim that the Gang would eventually find him if he returned to China.

[16] While the Decision could have been much clearer, the ultimate conclusion was reasonable and, for that reason, this Application cannot succeed.

JUDGMENT

UPON reviewing the material filed and hearing the submissions of counsel for both parties in Toronto on Wednesday, February 27, 2008;

AND UPON being advised that no questions are posed for certification;

NOW THEREFORE THIS COURT ORDERS AND ADJUDGES that, for the reasons given above, the Application is dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3139-07

STYLE OF CAUSE: RI XIN AO v. MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 27, 2008

REASONS FOR JUDGMENT: SIMPSON J.

DATED: JULY 23, 2008

APPEARANCES:

JOHN SAVAGLIO FOR THE APPLICANT

ADA MOK FOR THE RESPONDENT

SOLICITORS OF RECORD:

John Savaglio FOR THE APPLICANT
Barrister & Solicitor
Pickering, ON

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