

Date: 20081016

Docket: IMM-1879-08

Citation: 2008 FC 1175

Toronto, Ontario, October 16, 2008

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

CHEN LIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] With respect to the Applicant's claim for protection, the present Application concerns a challenge to a determination of the Refugee Protection Division (RPD) that the Applicant failed to prove his identity.

[2] The Applicant's evidence of his identity is composed of documentation supplied to the RPD and his testimony given during the hearing before the RPD. In reaching the challenged

determination, the RPD relied upon two conclusions: the Applicant's conflicted evidence with respect to his resident identity card is not credible; and that:

In addition, it was noted that other identity documents, disclosed by the claimant and considered by the panel, lacked any safety features. In this regard, country documents indicate that fraudulent documents are easily procured in China.

(Decision, p. 3)

[3] It is not contested that all evidence with respect to identity must be considered in reaching a conclusion on the issue. In the present case, the RPD did not accept the Applicant's "other identity documents" on an expectation that, to find them to be authentic, they should have contained "safety features". This finding is essentially an implausibility finding. That is, it is implausible that the other identity documents are authentic because they do not include safety features. The law with respect to implausibility findings is clear: before an assertion can be found to be implausible, the validly expected standard against which it is compared must be first established (see Justice Muldoon's decision in *Valtchev v. Canada (Minister of Citizenship and Immigration)*, [2001] F.C.J. No. 113 at paragraphs 6-7).

[4] Since, in the decision under review, the RPD did not establish that safety features would be expected to be found on the other identity documents, I find that the RPD's dismissal of these documents is made in error of law. Therefore, I find that, since the RPD failed to consider all the evidence on the record respecting the Applicant's identity before concluding that the Applicant failed to prove his identity, the challenged determination is made in reviewable error.

ORDER

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

“Douglas R. Campbell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: CHEN LIN v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 16, 2008

REASONS FOR ORDER AND ORDER BY: CAMPBELL J.

DATED: OCTOBER 16, 2008

APPEARANCES:

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