

Federal Court



Cour fédérale

Date: 20091127

Docket: IMM-1689-09

Citation: 2009 FC 1219

Ottawa, Ontario, November 27, 2009

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

ESTHER LADOUCE JONAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] François N'gonga, the chief of the village of Bangou in the Republic of Cameroon, a man more than 80 years old, apparently decided in November 2004 that Rosette Chakoba, who was then 20 years old, would be his twenty-second wife. He ordered that she be arrested, and this was a shock for Esther Ladouce Jonan, Rosette's mother.

[2] With the help of some prominent people in the village who had known her deceased husband, Ms. Johan was able to take her daughter to another part of the country, and from there Rosette fled to Gabon. Chief N’gonga then sent an announcement to all Bangou communities in Cameroon, looking for Rosette. Some people in the village believed that Ms. Jonan had dishonoured the chief of the village and brought shame on tradition. She stated that she received death threats and her home was destroyed. She was allegedly beaten but was able to escape. In August 2006, several members of the community allegedly burst into Ms. Jonan’s elder sister’s home, where Ms. Jonan was hiding, and she was violently assaulted and taken to hospital, where she stayed for three weeks. After other unfortunate events occurred, she arrived in Canada and claimed refugee protection.

[3] The Refugee Protection Division of the Immigration and Refugee Board concluded that Ms. Jonan was not a “Convention refugee” within the meaning of section 96 of the *Immigration and Refugee Protection Act* or a “person in need of protection” within the meaning of section 97 of the Act, and accordingly rejected her claim for refugee protection, finding that she was not credible. This is an application for judicial review of that decision.

[4] The main conclusion by the panel, absent which it could not have made that decision, concerns the status of the chief of Bangou, Mr. N’gonga. Ms. Jonan stated that Mr. N’gonga has been the chief of Bangou for at least 40 years. Although Ms. Jonan alleged that she had lived in Bangou all her life and she was more than 50 years old at the time, the panel preferred the

documentary evidence. There seems to be a hierarchy in the chieftaincy in Cameroun. Bangou is a second-tier chieftaincy, composed of 29 neighbourhoods, each of which is headed by a third-tier chief. Ms. Jonan was not able to confirm whether François N’gonga had subchiefs. The panel concluded that Mr. N’gonga must be a third-tier chief. At paragraph 14 of its decision, the panel stated:

The panel rejects the claimant’s testimony, which it does not consider credible. The documentary evidence, which comes from reliable and well-informed sources, states that Bangou is located 350 kilometres from Yaoundé and has approximately 12,000 residents. It also states the following:

[TRANSLATION]

Traditionally led by a second-tier chief, Bangou comprises 29 neighbourhoods governed each by a third-tier chief. ... The chiefs who have governed Bangou to date are: Nkouangong, Nguiesseu, Kepseu, Yepjouo, Nkouankep, Njosseu, Nguiesseu II, Taleani, Djomo I, Tayo I, Sinkep Charles, Kemayou Paul Bernard, Djomo Christophe, [and] Tayo Marcel since 1979.

[5] If Mr. N’gonga was a mere chief of one of the 29 neighbourhoods that compose a village with a population of 12,000, “it is completely implausible that François N’gonga would wield so much authority across all Cameroon. The panel is of the opinion that a negative finding of credibility may be made in respect of the claimant.”

[6] The documentary evidence from “reliable and well-informed sources” comes from a blog entitled “La chefferie du Bangou en Bamileke” [Bangou chieftaincy in Bamileke], Yahoo! 360°, France. The authors are not identified, but going by the accompanying photographs, they might be

two young French tourists. The text is subtitled “VOYAGE A BANGOU DANS L’OUEST CAMEROUN EN TERRE BAMILEKE” [trip to Bangou, western Cameroon, in Bamileke land] and starts out: [TRANSLATION] “Once again, I discover a new village in western Cameroon, in Bamileke land ... Why Bangou? you ask.” That documentary evidence is certainly not the kind of documentary evidence on which a panel ordinarily bases its decision, such as the reports produced by various countries that observe and compile information on the current situation in a particular country, or even by reputable NGOs. It seems to be simply a travel diary that a tourist has shared on a blog.

[7] On the one hand, we have the clear testimony of a woman who has spent her entire life in Bangou. On the other, we have a report of uncertain origin stating that Marcel Tayo has been chief since 1979 and that Bangou is a second-tier chieftaincy. The conclusion this leads to is that François N’gonga must be a third-tier chief.

[8] How could the panel have concluded that a third-tier chief has no influence outside his neighbourhood, while a second-tier chief can influence Bangou expatriates throughout Cameroon?

[9] The assessment of the evidence in this case is completely unreasonable (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190). In addition, there was no basis for concluding that Chief N’gonga exercises no influence outside his own neighbourhood. As Justice McGuigan wrote in *Canada (Minister of Employment and Immigration) v. Satiacum* (1989), 99 N.R. 171 (F.C.A.):

The common law has long recognized the difference between reasonable inference and pure conjecture. Lord Macmillan put the distinction this way in *Jones v. Great Western Railway Co.* (1930), 47 T.L.R. 39 at 45, 144 L.T. 194 at 202 (H.L.):

The dividing line between conjecture and inference is often a very difficult one to draw. A conjecture may be plausible but it is of no legal value, for its essence is that it is a mere guess. An inference in the legal sense, on the other hand, is a deduction from the evidence, and if it is a reasonable deduction it may have the validity of legal proof. The attribution of an occurrence to a cause is, I take it, always a matter of inference.

ORDER

FOR THESE REASONS;

THE COURT ORDERS that:

1. The application for judicial review is allowed.
2. The matter is referred back to a different panel for redetermination.
3. There is no serious question of general importance to be certified.

“Sean Harrington”

Judge

Certified true translation
Brian McCordick, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1689-09

STYLE OF CAUSE: ESTHER LADOUCE JONAN
and THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: November 19, 2009

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

DATED: November 27, 2009

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