

Federal Court



Cour fédérale

Date: 20101108

Docket: IMM-647-10

Citation: 2010 FC 1102

Ottawa, Ontario, November 8, 2010

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

MIN WU

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Mr. Min Wu maintains that he fled China after the underground Christian church he was attending was raided by the Public Security Bureau (PSB). He says that he paid a smuggler to escort him out of China because he was afraid of being arrested by the PSB for practising his Christian faith.

[2] When he arrived in Canada, Mr. Wu claimed refugee protection. A panel of the Immigration and Refugee Board dismissed his claim on three independent grounds: (1) it did not believe Mr.

Wu's account of his experiences at the underground church and his travel to Canada; (2) it did not accept that Mr. Wu was, as he claimed, a devoted congregant of a Pentecostal church in Canada; and (3) it was not persuaded that Mr. Wu was at risk of religious persecution if he were to return to Fujian province in China.

[3] Mr. Wu argues that the Board's findings were unreasonable and asks me to overturn its decision and order a different panel of the Board to reconsider his claim. However, I cannot find any grounds for overturning the Board's decision and must, therefore, dismiss this application for judicial review.

[4] The sole question is whether the Board's three main findings were unreasonable.

II. The Board's Decision

(1) General Credibility Concerns

[5] The Board expressed a number of concerns arising from Mr. Wu's testimony, including significant differences between Mr. Wu's evidence at the hearing into his refugee claim and the record of his statements when he arrived at the port of entry (POE) into Canada. In addition, it found aspects of his account of events implausible.

[6] In terms of contradictions, the Board noted that Mr. Wu denied knowing what passport he used to enter Canada or what name appeared on it. However, at the POE, he stated that he had used

an Indonesian passport, which the officer recorded in a summary of the POE interview. Mr. Wu also stated at the POE that he had a valid Chinese passport, which he gave to a friend for safe-keeping. At the hearing, he denied having such a document.

[7] In addition, Mr. Wu initially said that he did not know what route he took to arrive in Canada. He later stated that he travelled from Hong Kong to Beijing and then to Canada. At the hearing, he conceded that he deliberately attempted to mislead the POE officer.

[8] The Board also found it implausible that Mr. Wu had no idea what he would have said if he had been asked any questions about his identity or his conflicting documentation along the way. He maintained that the smuggler who accompanied him had assured him that he only had to follow along and let the smuggler do all the talking. In addition, the Board found unlikely Mr. Wu's claim that he only came to Canada because the smuggler told him to do so. He stated that the smuggler gave him no information about Canada or how he would be treated here, notwithstanding the large sum of money he paid – about \$27,000 Cdn.

[9] The Board also expressed concerns about Mr. Wu's testimony surrounding his membership in an underground church in China. Mr. Wu was asked at the hearing about the precautions that had been taken to avoid detection. He mentioned the use of lookouts at the entrances to the building. However, when prompted, he identified a number of other precautions, including meeting at three different rural locations, hiding bibles if necessary, refraining from singing hymns, and closing the blinds. The Board drew a negative inference from the fact that Mr. Wu did not mention these precautions when first asked.

[10] The Board was troubled by Mr. Wu's use of the term "Christianity" to describe his religion. Further, at the POE, Mr. Wu had said that the PSB was looking for the head of the underground church. In his personal information form, he said that the PSB was looking for him and his family. In an additional written declaration, Mr. Wu said that the PSB had arrested members of his church, but he did not mention that he was being sought. The Board found his evidence unpersuasive.

[11] The Board noted that Mr. Wu had not presented any documentary evidence that supported his claim that the PSB was looking for him. Contrary to common practice, the PSB had not left a warrant or summons with his family, even though Mr. Wu claimed that the PSB had visited his family on numerous occasions in his pursuit.

(2) Mr. Wu's Membership in the Pentecostal Church

[12] The Board was satisfied that Mr. Wu had adequate knowledge about the Christian religion. However, he had trouble articulating his core religious beliefs. In addition, although Mr. Wu stated that he had attended services at a Pentecostal church every week for more than two years, he was unable to describe the celebration of the Pentecost. The Board concluded that Mr. Wu had acquired knowledge of Christianity in order to supplement his refugee claim.

(3) Religious Persecution against Christians in Fujian Province

[13] The Board reviewed documentary evidence describing the treatment of Christians in Fujian province. It concluded that officials generally tolerated underground churches there. While there were concerns in some urban areas, and in respect of churches with links outside China, officials in Fujian seemed to turn a blind eye toward most underground churches. No arrests of Christians had been documented since 2002. The Board concluded that Mr. Wu's underground church was probably not raided by the PSB, as he had claimed, and that he would be able to continue to practise his religion if he so desired on return to China.

III. Were the Board's Findings Reasonable?

[14] Mr. Wu argues that the Board should not have compared his testimony at the hearing against his statements at the POE (relying on *Zhong v. Canada (Minister of Citizenship and Immigration)*, 2010 FC 524). The procedures at the POE were not adequate, he says, to ensure that an accurate recording of his testimony was taken. Mr. Wu's statements were taken over the phone and he had no means of ensuring their accuracy. He raised concerns about the process as soon as he became aware of statements attributed to him, just before his hearing at the Board.

[15] Mr. Wu also argues that the Board's negative assessment of the account of his travel to Canada and his relationship with the smuggler were unmerited. There was no basis on which to conclude, he says, that his testimony in these areas was unpersuasive.

[16] With respect to the Board's reliance on differences between Mr. Wu's statements at the POE and his testimony at the hearing, I accept that the Board should be careful not to place undue

reliance on the POE statements. The circumstances surrounding the taking of those statements is far from ideal and questions about their reliability will often arise. Here, Mr. Wu submits that he did not understand the interpreter at various points and that this explains the differences between his POE statements and his testimony before the Board.

[17] However, there is no evidence to support Mr. Wu's claim of difficulties in communication at the POE. While he says he had trouble understanding the translator at the POE, there is no record of his having expressed those concerns. Nor was he subsequently able to identify the portions of the interview during which he claimed to be unable to understand the interpreter.

[18] The Board concluded that Mr. Wu's evidence regarding his travel documents, his arrangements with the smuggler, his route to Canada, the particulars surrounding his underground church, and the alleged pursuit by the PSB, was either false or implausible. In my view, this conclusion was supported by the evidence.

[19] Regarding Mr. Wu's involvement in the Pentecostal church, in my view, the Board provided a reasonable explanation for its conclusion that Mr. Wu was not a genuine member of the congregation. He was not able to describe one of the principal celebrations of the Pentecostal church with which, after more than two years of attendance, one could reasonably have expected Mr. Wu to be familiar.

[20] In relation to the Board's assessment of the risk facing Mr. Wu in Fujian province, I am satisfied that the Board considered and referred to all of the relevant documentary evidence before it

on the point. The Board specifically noted the characteristics and size of the underground church Mr. Wu said he attended and concluded that such a congregation would be unlikely to draw the attention of officials in Fujian province.

[21] Overall, I cannot conclude that the Board's decision was unreasonable. In respect of each of the Board's three main conclusions, it relied on the testimony and documentary evidence before it. It provided a reasonable explanation for each of its conclusions and, in doing so, made reference to the relevant evidence.

IV. Conclusion and Disposition

[22] Mr. Wu has not persuaded me that the Board's findings were unreasonable. Accordingly, I must deny his application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-647-10

STYLE OF CAUSE: MIN WU v. MCI

PLACE OF HEARING: Toronto, ON.

DATE OF HEARING: October 12, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: November 8, 2010

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