

Federal Court



Cour fédérale

**Date: 20110526**

**Docket: IMM-5413-10**

**Citation: 2011 FC 614**

**Ottawa, Ontario, May 26, 2011**

**PRESENT: The Honourable Mr. Justice Near**

**BETWEEN:**

**WU XIN WANG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board), dated August 16, 2010, wherein the Applicant was determined to be neither a Convention refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. Based on several inconsistencies between the Applicant's oral testimony and his Personal Information Form (PIF),

the Board did not find the Applicant's allegations that he attended an underground Christian church in China and was wanted by the Public Security Bureau (PSB) to be credible.

[2] For the reasons that follow, this application is dismissed.

I. Background

A. *Factual Background*

[3] The Applicant, Wu Xin Wang, is a citizen of China. He came to Canada in April 2007 on a temporary work permit. On January 7, 2008 he made a claim for refugee protection based on the persecution he would allegedly suffer in China due to his religious beliefs.

[4] The Applicant recounted on his PIF that he suffered from chronic lower back pain. A friend of his introduced him to Jesus Christ and began to pray for him. The Applicant credits this with curing his back pain. This friend began to teach the Applicant how to pray and told him about the bible. As a result of his growing interest and belief, the Applicant began attending an underground Christian church in November 2004. The Applicant claims that he read the bible and prayed everyday thereafter. He sometimes acted as a look-out during church services.

[5] Three days after arriving in Canada in April 2007, the Applicant's employer referred him to a church which he began attending regularly. The Applicant alleges that he received a phone call from his wife on January 3, 2008 informing him that officials from the PSB had visited their home,

seeking his cooperation in an investigation of illegal church activities. He was ordered to return home as soon as possible. Shortly thereafter, the Applicant's wife learned that the underground church attended by the Applicant had been raided on December 25, 2007 and some members were arrested. The members were sentenced to time in prison. At this point the Applicant began to fear for his life should he return to China and so he filed a claim for refugee protection.

B. *Impugned Decision*

[6] In assessing the Applicant's claim, the Board focused on the credibility of the Applicant's allegations of being a member of an underground church in China and his allegations that he is a genuine practicing Christian in Canada. The Applicant was unable to satisfy the Board of the veracity of either set of allegations. The Board found several inconsistencies between the evidence provided by the Applicant in his PIF and Port of Entry Record of Examination (POE) and his oral testimony at the hearing. The Applicant gave inconsistent evidence regarding *inter alia*:

- The reason the PSB officials first visited his home – on his PIF the Applicant claimed they wanted his assistance with an investigation, at the hearing he explained that they wanted to arrest him;
- The number of times the PSB officials visited his home – on his PIF he listed seven times in total, while at the hearing he testified that it was four times;
- When he recruited his friend to join the underground church – on his PIF he indicated that it was in January 2006, while at the hearing he claimed it was in June 2005;

- Who he recruited to join the underground church – at the hearing he testified that he attempted, albeit unsuccessfully, to attract his wife and son and several co-workers to the church, on his PIF he only listed the one successful conversion of his friend.

[7] The Board did not find the Applicant to be a credible and trustworthy witness. As a result the Board required evidence to support his claim. However, the Applicant did not produce any summons or an arrest warrant, or an affidavit from his wife. The Board came to the conclusion that the Applicant was not wanted by the PSB in China.

[8] The Board examined the Applicant in an attempt to evaluate the genuineness of his Christian faith both in China and in Canada. The Applicant was able to answer numerous questions, but was unable to describe to the Board what Jesus looked like as a person or describe certain core beliefs of the Pentecostal Church. The Applicant did not at first instance explain that his church had an escape plan as a precautionary measure and the Board found the Applicant's lack of knowledge as to why his church was illegal in China to be suspicious given the Applicant's background and alleged involvement with the Church. The Board found that the Applicant's limited knowledge undermined the genuineness of his Christian faith and practice.

[9] Lastly, the Board considered the Applicant's delay in claiming in Canada. The Board was unconvinced by the Applicant's explanation that he did not have any fear when he arrived in Canada because his church had never been raided. The Board found that the delay to claim undermined the well-foundedness of his fear and his claim that he was a practicing Christian in China.

[10] Based on the totality of the evidence, the Board came to the conclusion that the Applicant's professed religious beliefs and practices were merely an attempt to bolster a refugee claim based on religion.

## II. Issue

[11] The Applicant questions the reasonableness of several of the Board's credibility findings. As such, the main issue to determine on this application is:

- (a) Did the Board rely on overly microscopic determinations, or misapprehend the evidence in concluding that the Applicant was not a credible witness?

## III. Standard of Review

[12] It is well-established that decisions of the Board as to credibility are factual in nature and are therefore owed a significant amount of deference. The appropriate standard of review is a standard of reasonableness (*Lawal v Canada (Minister of Citizenship and Immigration)*, 2010 FC 558 at para 11; *Aguebor v Canada (Minister of Employment and Immigration)* (1993), 160 NR 315, 42 ACWS (3d) 886 (FCA) at para 4).

[13] As set out in *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190, reasonableness requires consideration of the existence of justification, transparency, and intelligibility in the

decision-making process. It is also concerned with whether the decision falls within a range of acceptable outcomes that are defensible in respect of the facts and law.

IV. Argument and Analysis

A. *Did the Board Make Reasonable Credibility Determinations?*

[14] The Applicant submits that the Board erred by being either overly microscopic or disregarding evidence in drawing negative credibility inferences from the Applicant's testimony regarding:

- the reason the PSB first came to look for the Applicant;
- his failure to produce corroborating documentary evidence, such as a summons;
- his answer to the question, what was Jesus like as a person;
- the people he introduced to the Church and neglecting to mention his wife and son and coworkers on his PIF;
- his failure to mention that his underground church had an escape plan;
- the reason his church was not registered;
- his failure to claim refugee protection on his arrival in Canada;
- the core beliefs of the Pentecostal faith.

[15] The Applicant made submissions on each of these points alleging variously that these findings were either overly microscopic, unreasonable, or not based on the evidence. For example, the Applicant submits that impugning the Applicant's credibility on the basis that on his PIF he said

that the PSB first came to seek his assistance with an investigation and at the hearing he said the PSB first came to arrest him, is overly microscopic. The Applicant also argues that the Board mischaracterized an escape plan as being precautionary in nature and was therefore unreasonable in drawing an adverse credibility finding because the Applicant did not talk about it when describing the precautions taken at his church. In the Applicant's view, an escape plan is not precautionary in that it does not prevent a raid, rather it is a plan that is put into action only after a raid begins.

[16] The Respondent submits that the arguments submitted by the Applicant amount to nothing more than suggesting that alternative inferences should have been made by the Board. However, in order to demonstrate that the Board's inferences are unreasonable, the Applicant would have to show that the inferences are not supportable in any way by the evidence (*Sinan v Canada (Minister of Citizenship and Immigration)*, 2004 FC 87, 128 ACWS (3d) 1173 at para 11). Merely arguing that alternative inferences are possible or preferable in the eyes of the Applicant is not sufficient to justify judicial review.

[17] I have reviewed the transcript. I am unable to say that any of the findings criticized by the Applicant are outside the range of acceptable outcomes supported by a review on the reasonableness standard. The reasonableness standard is deferential. The Board member was in the best position to assess the credibility of the Applicant, and I am unable to agree with the Applicant that any of the Board's findings were overly microscopic or unreasonable. Furthermore, as argued by the Respondent, none of the credibility findings alone were determinative of the claim. The Applicant has not addressed all of the Board's discrepancy findings. The Applicant has not explained or disagreed with the Board's finding that he provided inconsistent testimony regarding when he

introduced his friend to the underground church, or the number of times the PSB visited his home. The Board based its conclusion on the totality of the evidence, and came to a negative determination of the Applicant's credibility based on the sum of multiple inconsistencies. Even if I were to agree with the Applicant regarding his testimony with respect to the escape plan, this Court has found that some microscopic findings by the tribunal do not invalidate a decision that is, on the whole, reasonable (*He v Canada (Minister of Citizenship and Immigration)*, 2010 FC 525 at para 12).

[18] Certainly it is a difficult task to assess the genuineness of a claimant's religious beliefs. The Board acknowledged as much in its reasons. This challenging job has been delegated to the Board as the finder-of-fact, and this Court cannot, on judicial review, decide to, in effect, reweigh the results of what can begin to look like a round of bible-trivia. The Board recognized that the Applicant had some knowledge of the Christian faith. The Board considered documents attesting to the Applicants' attendance and participation in church activities. However, the Board noted that these documents could not and did not attest to the Applicant's motivation in so doing and could not substitute for the Board's own assessment (*Cao v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1174, 172 ACWS (3d) 464).

[19] I do agree with the Applicant that the Board's question regarding what Jesus was like as a human is somewhat awkward, in that it is hard to know what answer the Board sought, and what answer would have been satisfactory. This line of questioning began at pg 757 of the CTR:

Member: So tell me about Jesus as a person. What was he like?

Claimant: Jesus is son of God.

Member: I am not asking who he was or what he did. I am asking what is he like as a person.



Claimant: Jesus was conceived through the holy ghost and was born in this world.

Member: Again I am not asking who he was or what he did. I am asking who he is as a person. Because anybody could memorize a creed and recite the creed. I want to know what you believe and what you know of Jesus as a person.

Claimant: In my heart he is my saviour.

Member: That is not... again, tell me what Jesus is as a person and this is the last time I am going to ask you.

Claimant: I am sorry I really do not know how to answer.

[20] Nevertheless, if anything, this line of questioning illustrates the difficulty of the assessment the Board is required to make. It does not represent an error for which the Board's decision should be over-turned. Absent a showing of disregard for the evidence, or a misapprehension of the facts, I am unwilling to disturb the Board's conclusion in this regard – again deference is warranted. The Board did not make the determination of the genuineness of the Applicant's faith based solely on the Applicant's inability to attribute some human characteristics to Jesus. Answers to other questions regarding the Pentecostal faith were vague and lacking in detail. As the Respondent submits, testimony lacking detail that would reasonably be expected of a person in the claimant's position is a basis for rejecting claims as non-credible even if the Applicant was able to answer some other questions correctly, and with great detail.

[21] Given that the Board provided transparent, intelligible reasons, justified by the evidence, and the outcome is based on the evidence and falls within the range of possible defensible outcomes, this application for judicial review is dismissed.

V. Conclusion

[22] No question to be certified was proposed and none arises.

[23] In consideration of the above conclusions, this application for judicial review is dismissed.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

“ D. G. Near ”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-5413-10  
**STYLE OF CAUSE:** WU XIN WANG v. MCI

**PLACE OF HEARING:** TORONTO

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AND JUDGMENT BY:** NEAR J.

**DATED:** MAY 26, 2011

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