

Federal Court



Cour fédérale

Date: 20120621

Docket: IMM-4826-11

Citation: 2012 FC 796

Ottawa, Ontario, June 21, 2012

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

ZHAO JIA CHEN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Mr. Zhao Jia Chen claimed refugee protection in Canada based on his fear of religious persecution in China as a Roman Catholic. He maintains that the house church he was attending in Guangdong was raided by the Public Security Bureau [PSB] in 2009. He managed to escape and went into hiding. Mr. Chen also contends that other congregants were arrested, and the PSB was looking for him, too. As a result, he fled China and claimed refugee status in Canada.

[2] A panel of the Immigration and Refugee Board denied Mr. Chen's claim mainly because his account of events was not borne out by documentary evidence about the treatment of Roman Catholics in Guangdong. Mr. Chen submits that the Board's decision was unreasonable. It wrongly rejected his testimony simply because it was not corroborated by the documentary evidence. He asks me to quash the Board's decision and order a new hearing.

[3] In my view, the Board's treatment of Mr. Chen's evidence was not unreasonable. The documentary evidence did not show that Roman Catholics are persecuted in Guangdong. The Board was entitled to rely on that evidence in reaching its conclusion that Mr. Chen's refugee claim was not made out. Accordingly, I must dismiss this application for judicial review.

[4] The sole issue is whether the Board's decision was unreasonable.

II. The Board's Decision

[5] The Board noted that the documentary evidence indicated that police authorities in China often leave a summons or arrest warrant with the family or friends of a suspect. However, there was no evidence that they had done so in Mr. Chen's case.

[6] Further, other documentary evidence showed that Catholics are persecuted in some areas of China. Practices vary from region to region. In Guangdong, according to some sources, authorities are quite tolerant. Further, given that there was evidence of persecution of Catholics in more remote

areas of China, one would have expected that any mistreatment in Guangdong would have been documented. Further, most incidents of persecution involved bishops and priests, not ordinary practitioners.

[7] Based on this evidence, the Board concluded that the PSB had not raided Mr. Chen's house church and were not pursuing him. In addition, while the Board accepted that Mr. Chen was a genuine Catholic, it found that he would not face a serious possibility of persecution or a substantial risk of cruel and unusual treatment or punishment if he practised his faith in Guangdong.

III. Was the Board's Decision Unreasonable?

[8] Mr. Chen argues that the Board erred when it found that the PSB would likely have issued a summons or warrant if it was truly interested in him. Further, he contends that the Board erred by failing to make any specific finding that his testimony was not credible. Instead, the Board merely compared his version of events with the documentary evidence and concluded that his testimony was improbable. These errors, Mr. Chen claims, lead the Board to render an unreasonable decision.

[9] In my view, given the evidence before it, the Board's decision was not unreasonable.

[10] The evidence regarding issuance of a summons or warrant was equivocal. It showed that this is a common practice, but that procedures varied across China. The Board considered Mr. Chen's evidence that the PSB had made numerous inquiries about him and had arrested other members of his church and concluded that, in these circumstances, it is likely that the PSB would

have left a summons or warrant with Mr. Chen's family. That was not an unreasonable finding on the evidence.

[11] Regarding the credibility finding, the Board is entitled to weigh the evidence before it, including the documentary evidence, and must determine whether the claimant has established a well-founded fear of persecution or a substantial risk of cruel and unusual treatment or punishment. Here, the Board was not satisfied that Mr. Chen had met that burden. It found that Mr. Chen's testimony about the raid, the PSB's activities, and the arrests of others was inconsistent with the objective documentary evidence. This was a sufficient basis for discounting Mr. Chen's testimony. It was unnecessary for the Board to give further reasons for doubting Mr. Chen's credibility.

[12] In any case, the documentary evidence showed that it was unlikely that Mr. Chen would face persecution on his return to China. His claim was simply not supported by evidence about the current conditions in Guangdong.

[13] Therefore, I cannot conclude that the Board's decision was unreasonable. It fell within the range of defensible outcomes based on the facts and the law.

IV. Conclusion and Disposition

[14] The Board considered and weighed the evidence before it and concluded that Mr. Chen's claim had not been made out. That conclusion was not unreasonable in light of the documentary evidence about the situation in Guangdong. Accordingly, I must dismiss this 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-4826-11

STYLE OF CAUSE: ZHAO JIA CHEN
v
MCI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: February 22, 2012

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

DATED: June 21, 2012

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