Federal Court  Cour fédérale

Date: 20130830

Docket: IMM-8091-12

Citation: 2013 FC 928

Ottawa, Ontario, August 30, 2013

PRESENT: The Honourable Madam Justice Gleason

BETWEEN:

QI GUO CHEN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review of the July 17, 2012 decision [the decision] of the Refugee Protection Division of the Immigration and Refugee Board [the RPD or the Board] finding the applicant to be neither a Convention refugee nor a person in need of protection within the meaning of sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

[2] The applicant is a citizen of the People's Republic of China who resided in Fujian Province before his flight to Canada. He claims to have joined an underground Catholic house church in China and that it was raided by the Public Security Bureau [PSB] soon after. He also attended a Catholic church in Canada. The pastor of that parish wrote a letter advising that the applicant had been attending services, classes and volunteering at the church and that the applicant would be baptised in April 2012. At the RPD hearing, the applicant indicated that the baptism had not occurred because he is divorced.

[3] In the decision under review, the Board rejected the applicant's claim, finding that there was neither a subjective nor an objective basis for the applicant's fear of persecution under section 96 of the IRPA and that there was no objective basis to find him to be at risk under section 97 of the IRPA. More specifically, while accepting that the applicant might have attended a house church in China, the RPD did not believe the applicant's claim that the church had been raided due to the lack of corroboration for his testimony. In this regard, the Board placed little weight on the purported PSB summons that the applicant produced as it lacked an address to which the applicant was to report and because fraudulent documents are prevalent in China. The RPD also noted that the objective documentation regarding Fujian did not indicate that there had been PSB raids of small house church groups.

[4] The applicant argues that the Board committed four reviewable errors in its decision. First, the applicant says that the Board failed to squarely set out the reasons why it discarded his claim that his house church was raided. Second, he argues that the Board failed to explicitly find the summons to be inauthentic and thus erred in affording it no weight. Third, he submits that there was

no basis for the Board to have doubted the authenticity of the summons as it does show the police station that it was issued from and the Board engaged in improper speculation in assuming that a Chinese summons would need to have a reporting address on it. And, fourth, he argues that the Board erred in finding there would be no risk to the applicant if returned to Fujian as this finding is premised on the assertion that members of house churches are not subject to arrest, which is an unreasonably narrow understanding of what activities can constitute religious persecution warranting protection under the IRPA.

[5] In my view, none of these points provides any basis for overturning the Board's decision. The standard applicable to review of the decision is reasonableness, as the impugned findings are all matters of fact or mixed fact and law (*Rajadurai v Canada (Minister of Citizenship and Immigration)*, 2013 FC 532 at para 23, 228 ACWS (3d) 530; *Henguva v Canada (Minister of Citizenship and Immigration)*, 2013 FC 483 at para 4, 228 ACWS (3d) 216). The reasonableness standard is a deferential one that provides that a decision cannot be overturned if the tribunal's reasons are transparent, intelligible and justified and the result falls within the range of permissible alternatives open in light of the facts and applicable law (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190).

[6] The first two alleged errors invite the Court to engage in a microscopic reading of the decision that is the antithesis of a deferential reasonableness review. The Supreme Court of Canada has confirmed that such an approach is not warranted under the reasonableness standard and has indicated that decisions should be upheld if the reasons allow the litigant and the reviewing court to know why the decision was reached. In *Newfoundland and Labrador Nurses' Union v*

Newfoundland and Labrador (Treasury Board), 2011 SCC 62, [2011] 3 SCR 708, Justice Abella, writing for the Court at para 16, put it in the following way:

> Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion […] In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.
>
> [Citations omitted]

[7] In *Construction Labour Relations v Driver Iron Inc*, 2012 SCC 65, [2012] 3 SCR 405 the Supreme Court similarly stated, at para 3:

> The Board did not have to explicitly address all possible shades of meaning of these provisions. This Court has strongly emphasized that administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons. For reviewing courts, the issue remains whether the decision, viewed as a whole in the context of the record, is reasonable […].
>
> [Citations omitted]

[8] Here, with regard to his first two arguments, the applicant is attempting to impugn the Board's decision simply for having failed to spell out its findings in more detail. As noted, it is clear that the Board found the raid to have not occurred due to problems with the corroborating evidence. In this respect, the Board stated: "[S]ince there is a lack of evidence before the panel to indicate that his house church was raided in May 2010, the panel finds that his house church was not raided and, therefore, he is not wanted by the PSB, nor were any of its members arrested" (the decision at para 18). Similarly, with regards to the summons, the Board concluded that it was affording "little weight

[to] this evidence" due to the lack of reporting address and the availability of fraudulent documents in China (the decision at para 15). These reasons allow this Court to understand the basis for the Board's decision and thus the applicant's first two arguments must be dismissed.

[9] In addition to the reasons just noted, the cases relied upon by the applicant for his argument that the Board erred in failing to make findings regarding the alleged raid (namely *Wei v Canada (Minister of Citizenship and Immigration)*, 2013 FC 539, 229 ACWS (3d) 232; *Lin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 157, 405 FTR 21; *Lin v Canada (Minister of Citizenship and Immigration)*, 2009 FC 254, 176 ACWS (3d) 500) are further distinguishable on their facts. In each of those cases, the Board's credibility findings were premised only on the objective evidence, at the exclusion of the applicant's evidence, or not made at all. In the present case, the Board made a negative credibility finding regarding whether the raid on the applicant's church had occurred, which was premised on a lack of corroboration for the applicant's story and a conclusion that the summons presented was inauthentic.

[10] As concerns the applicant's third argument, namely that the Board erred in finding the lack of a reporting address on the summons to raise doubts about its authenticity, I find this conclusion to have been reasonably open to the Board, particularly in light of the large size of Fuzhou City and, more broadly, the applicant's inability to provide details regarding the current location or situation of any of the other individuals allegedly present when the raid occurred. The case law recognises that the RPD may draw on common sense in making plausibility determinations (*Giron v Canada (Minister of Employment and Immigration)*, 143 NR 238 at para 1 (FCA); *Zacarias v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1155 at para 10, 223 ACWS (3d) 195;

Chavarro v Canada (Minister of Citizenship and Immigration), 2010 FC 1119 at paras 30-32, 194 ACWS (3d) 1228). On the deferential reasonableness standard of review, the Board's decision to doubt the authenticity of a purported summons document that lacked an address to report was reasonable in this context, even if the document did contain the name of the police station.

[11] Finally, while it is true that a refugee claim may be premised on religious persecution falling short of arrest (see e.g. *Zhang v Canada (Minister of Citizenship and Immigration)*, 2009 FC 1198, 182 ACWS (3d) 982), contrary to what the applicant asserts, the Board did not premise its finding only on the lack of arrest of Christians in Fujian province. Rather, the Board canvassed the documentation generally and noted that, while the evidence was mixed, there was little recent evidence of persecution of lay Catholics in Fujian. While certain reports did indicate general concerns with religious freedoms in Fujian, the Board noted that these reports lacked particulars of the problems faced by Christians in the Province and, therefore, afforded them minimal weight. The RPD therefore concluded that the applicant had not established that he would face any objective risk if returned to Fujian.

[12] This determination is a reasonable one in light of the evidence before the Board. Indeed, as the respondent notes, this Court has recently upheld similar RPD determinations in several cases (see e.g. *Qin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 9; *He v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1199; *Wang v Canada (Minister of Citizenship and Immigration)*, 2011 FC 636; *Yanni Yang v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1350; *Kai Bin Wei v Canada (Minister of Citizenship and Immigration)*, 2012 FC 911; *Yan Ping Ke v Canada (Minister of Citizenship and Immigration)*, 2012 FC 862; *Shoupeng Wei v*

Canada (Minister of Citizenship and Immigration), 2012 FC 854; and *Yu Kun Lin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 671.

[13] This application for judicial review will accordingly be dismissed. No question for certification was submitted under section 74 of the IRPA and none arises in this case.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed;

2. No question of general importance is certified under section 74 of the IRPA; and

3. There is no order as to costs.

"Mary J.L. Gleason"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE:	*Qi Guo Chen v The Minister of Citizenship and Immigration*
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