

Federal Court



Cour fédérale

Date: 20140908

Docket: IMM-7599-13

Citation: 2014 FC 851

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, September 8, 2014

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

BHOYE SARAYAH BARRY

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

ORDER AND REASONS

[1] **CONSIDERING** an application for judicial review, pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (Act), of a decision by the Refugee Protection Division (RPD);

[2] **CONSIDERING** that the RPD found that the applicant is not a refugee or a person in need of protection;

[3] **UPON** review of the record and upon hearing the parties. The only issue in this case is whether the RPD made an unreasonable finding that the applicant does not qualify under sections 96 and 97 of the Act because he was unable to establish his identity. Furthermore, in the alternative, the RPD also found that the account provided by the applicant was not credible. That resulted in a negative decision on Mr. Barry's claim.

[4] The applicant states that he is a young man from Guinea who was 18 years old when he entered Canada. The first difficulty the RPD encountered was that the applicant did not conclusively establish his identity. In fact, he submitted a birth certificate that was apparently prepared in November 2011 and contained information that was crossed out and errors (spelling mistakes). Moreover, he stated that he is his mother's fourth child while the birth certificate states that he is her third child. The applicant also produced a passport obtained early in 2012, a passport that was not used during his entry into Canada, which purportedly occurred on March 15, 2012. The applicant was also very vague with respect to the circumstances that brought him to Canada, although he claims that he was assisted by someone he met at the home of his aunt in Dakar, Senegal. It is that person who purportedly dealt with the Canadian authorities upon arrival into the country and the applicant does not know which document was produced to allow him to cross the border.

[5] Evidently, as a result, it was difficult to establish the applicant's identity conclusively. That is the RPD's finding and the applicant was unable to undermine that finding. The standard

of review in such matters is reasonableness and findings by the RPD must be shown to meet the test in *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190, at paragraph 47.

[6] But the RPD did not stop there. In fact, the decision-maker examined the applicant's account with respect to why he claims that he is a person in need of protection in Canada and it was quite obvious that his account lacks credibility. The account does not have the specificity that a decision-maker would expect. An applicant must be able to explain why he would file a complaint with the police in another sub-prefecture for actions that allegedly took place at home. Furthermore, the applicant had a lot of difficulty clearly stating the date on which he filed a complaint. He also contradicted himself with respect to the identity of his apparent agent of persecution. He was no more able to identify the police officer who apparently received his complaint and whose name appears on the documents provided by the applicant himself.

[7] Under these circumstances, the only finding the RPD could make was that the lack of clear identification by the applicant and the non credible account of the events that allegedly brought him to Canada render his claim ineligible. The Court finds that the application for judicial review must be dismissed. There is no question of general importance for certification.

ORDER

[8] **THE COURT ORDERS that** the application for judicial review is dismissed. There is no question of general importance for certification.

“Yvan Roy”

Judge

Certified true translation
Janine Anderson, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7599-13

STYLE OF CAUSE: BHOYE SARAYAH BARRY v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: AUGUST 28, 2014

ORDER AND REASONS: ROY J.

DATED: SEPTEMBER 8, 2014

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