

Federal Court



Cour fédérale

Date: 20170908

Docket: IMM-4028-16

Citation: 2017 FC 815

Toronto, Ontario, September 8, 2017

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

SAI HUA LIN (A.K.A. CHAI FA LIN)

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench in Toronto, Ontario on September 8, 2017)

I. Overview

[1] The answers of the Applicant before the Refugee Protection Division [RPD] were considered to lack credibility on the very inherent logic of the Applicant's own narrative; the inconsistencies, contradictions and implausibility of the narrative were clearly explained by the RPD in its decision. As a trier of fact, the RPD is in a position due to its specialized jurisdiction

to consider responses and explanations as to the inherent logic of an Applicant's own narrative; that is, when it demonstrates its reasons for such, which the RPD did, in its clear reasonable decision.

[2] The Court refers to *Warsame v Canada (Minister of Citizenship and Immigration)*, 2016 FC 596, [2016] FCJ No 618 at paras 24 to 32, in respect to cases, wherein the phrase, "clearly fraudulent" by the United Nations High Commissioner for Refugees is used to describe the situation and circumstances of such cases in respect of "Manifestly Unfounded Applications for Asylum".

II. Decision

[3] The Applicant left China and claimed refugee protection in Canada. The claim was based on a fear of persecution for being a member of an underground Christian church.

[4] The narrative of the Applicant explains that subsequent to being arrested, she became ill; and, was then transferred to a hospital from which she escaped.

[5] Her escape, according to her narrative, took place due to the security guards playing poker; and, thus, were inattentive to her. Subsequently, with the assistance of a smuggler, she stated, she had left China.

[6] The RPD of the Immigration and Refugee Board [IRB], refused the Applicant's claim as it found her claim to be "manifestly unfounded".

[7] The RPD found that the responses and narrative of the Applicant bore contradictions, inconsistencies and misleading statements as to the Applicant's Christian affiliation.

Furthermore, the RPD considered the deceit of the Applicant was such that documents submitted by the Applicant were fabricated for the purpose of the claim, thus, recognizing that not only was credibility at issue in respect of the claim, but the Applicant's identity, itself, was in question.

[8] Notes were submitted by the Minister to indicate that the Applicant, initially, attempted to come to Canada in March of 2016, but was intercepted in Singapore due to an altered Taiwanese passport on which she attempted to fly to Guangzhou and, then, to Vancouver. The Applicant did continue her journey to Guangzhou with a genuine Chinese passport.

[9] Before the Applicant was removed, she had said that she attempted to seek employment in Canada. Although the Applicant confirmed that she had gone to Singapore, she did not write of this travel in her BOC form.

[10] The written evidence attempting to corroborate the claim of the Applicant was highly problematic due to the circumstances and very brief delays under which they had been prepared; in addition, the witness (originator of a key document), from whom the RPD had expressed a desire to hear, had never appeared before the RPD.

[11] The RPD's reasons were, in and of themselves, justifiable, transparent and intelligible as per the trilogy of judgments from the Supreme Court of Canada: *Dunsmuir v New Brunswick*, [2008] 1 SCR 190, 2008 SCC 9; also, *Alberta (Information and Privacy Commissioner) v*

Alberta Teachers' Association, [2011] 3 SCR 654, 2011 SCC 61; and, *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, [2011] 3 SCR 708, 2011 SCC 62.

[12] Therefore, the IRB's treatment of the evidence in its decision was reasonable. The narrative as told by the Applicant and her accompanying documents were understandably considered to lack credibility; and, furthermore, the application was "manifestly unfounded".

[13] The IRB did not err in its analysis of the narrative, nor of its accompanying documents. The application for judicial review is therefore dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be dismissed.

There is no serious question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4028-16

STYLE OF CAUSE: SAI HUA LIN (A.K.A. CHAI FA LIN) v THE MINISTER
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