

Federal Court



Cour fédérale

Date: 20181212

Docket: IMM-2094-18

Citation: 2018 FC 1257

Vancouver, British Columbia, December 12, 2018

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**JIEFU GAN
YANJUAN CHEN
YUER FANNY GAN CHEN
YUTING WINDY GAN CHEN
YILIN DIEGO GAN CHEN**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Gan (the “Principal Applicant”), his wife Yanjuan Chen and their minor children Yuer Fanny Gan Chen, Yuting Windy Gan Chen and Yilin Diego Gan Chen (collectively “the Applicants”) seek judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “Board”) by which their claims for recognition as Convention

refugees or persons in need of protection pursuant to section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”), were dismissed.

[2] The Principal Applicant and his wife are citizens of China. Their children were born in Ecuador.

[3] The Principal Applicant alleges a fear of the Public Security Bureau (the “PSB”) as the result of a skirmish with government officials arising in connection with the expropriation of property owned by him. The Principal Applicant did not agree with the amount of compensation he was offered.

[4] Ms. Chen based her claim upon her status as a woman fearing the application of the family planning laws in China, specifically fear of forced use of an intrauterine contraception device since she has already given birth to more children than permitted by Chinese family planning law.

[5] The claims of the children were based upon their status in Ecuador as ethnic minorities who would face discrimination and be at risk from local crime and gun violence.

[6] The Board assessed the claims of the Principal Applicant and his wife against China, and the claims of the minor children against Ecuador.

[7] The Board rejected all the claims. It found that the Principal Applicant and his wife were not credible. It found that the minor children had the right to return to Ecuador by virtue of their citizenship.

[8] The Applicants argue that the Board unreasonably assessed the credibility of their claims and failed to use a forward-looking perspective. They also submit that the Board unreasonably assessed the claims of the children against Ecuador since the children would not reasonably be able to live in that country.

[9] The Minister of Citizenship and Immigration (the “Respondent”) submits that the Board reasonably assessed the evidence of the Applicants, including the documentary evidence, and committed no reviewable error.

[10] The decision of the Board is reviewable upon the standard of reasonableness; see the decision in *Nadarajah v. Canada (Citizenship and Immigration)* (2012), 409 F.T.R. 308.

[11] According to the decision in *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, the reasonableness standard requires that a decision be transparent, justifiable and intelligible, falling within a range of possible, acceptable outcomes that are defensible on the law and the facts.

[12] Upon considering the evidence before the Board and the submissions, both written and oral, of the parties, I am not persuaded that the Board’s conclusions were unreasonable, within the meaning of *Dunsmuir, supra*.

[13] The Applicants testified before the Board. In addition to assessing the contents of the narratives submitted with their claims for protection, the Board had the opportunity to weigh the oral evidence and to decide if that evidence credibly established the asserted claims.

[14] I see no error in the manner in which the Board weighed all the evidence and there is no basis for judicial intervention.

[15] In the result, the application for judicial review is dismissed; there is no question for certification arising.

JUDGMENT in IMM-2094-18

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

There is no question for certification arising.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2094-18

STYLE OF CAUSE: JIEFU GAN, YANJUAN CHEN, YUER FANNY GAN
CHEN, YUTING WINDY GAN CHEN, YILIN DIEGO
GAN CHEN v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 5, 2018

JUDGMENT AND REASONS HENEGHAN J.

DATED: DECEMBER 12, 2018

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