

Federal Court



Cour fédérale

**Date: 20241010**

**Docket: IMM-7113-23**

**Citation: 2024 FC 1609**

**Toronto, Ontario, October 10, 2024**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**TUNG LAM NGUYEN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Tung Lam Nguyen [Applicant], a citizen of Vietnam, alleges that he risks persecution in Vietnam as a follower and practitioner of Hoa Hao Buddhism. The Applicant came to Canada in February 2017 on a student permit. The Applicant filed a refugee claim after he allegedly learned in April 2020 that the police went to his family home in Vietnam looking for him because of his religious activities.

[2] The Refugee Protection Division [RPD] rejected the Applicant's claim. The RPD accepted that the Applicant is currently practicing Hoa Hao Buddhism but found that he did not credibly establish that the police had any interest in him on that basis, and that the objective evidence does not establish that he faces a serious possibility of persecution in Vietnam based on his particular profile. The Refugee Appeal Division [RAD] upheld the RPD's findings [Decision].

[3] The Applicant seeks judicial review of the Decision. For the reasons set out below, I find the Decision reasonable and I dismiss the application.

## II. Analysis

[4] The issue before me is whether the Decision was reasonable. The appropriate standard of review is set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

[5] The Applicant's submissions are somewhat disjointed. The Applicant at times refers to the RPD decision and at other times refers to the RAD's findings, and still at other times refers to the "board" without specifying what that means. I further note that many of the Applicant's arguments fail to refer to any of the specific findings of the RAD or to the evidence, if any, that the Applicant seeks to rely on.

[6] From what I can make of the Applicant's submissions, I summarize the Applicant's position as follows:

- a. The RAD erred by upholding the RPD's errors in the latter's credibility analysis; and

- b. The RAD erred by finding that the Applicant does not face a serious possibility of persecution in Vietnam.

[7] Although the Applicant argued on appeal before the RAD that the RPD erred in applying the wrong legal test, the Applicant does not make submissions on this issue before the Court, other than asserting that a section 96 analysis requires a lower standard of proof than that for a section 97 analysis. I will not deal with this argument in light of the brevity of the submission.

A. *The RAD did not err by upholding the RPD's credibility findings*

[8] With respect to the RAD's credibility findings, the Applicant submits it is settled law that when a claimant swears to the truth of his/her testimony, that testimony is presumed to be true unless there is a valid reason to doubt its truthfulness. The Applicant argues that if the RAD erred in its credibility findings, the error taints all other credibility findings and may vitiate the Decision as a whole, citing *Agbon v Canada (Citizenship and Immigration)*, 2005 FC 1573, [2005] FCJ No 1936 (QL).

[9] The Applicant submits the RAD expected him to know everything about his religious practice and that was why it made a negative inference and dismissed his appeal. Further, the Applicant asserts that the RPD conducted a microscopic analysis when it asked the Applicant details about his faith, without taking into account the Applicant does not speak English well and is not a sophisticated party, citing *Chen v Canada (Citizenship and Immigration)*, [2002] FCJ No. 1076 (QL).

[10] With respect, the Applicant's arguments have no merit. Both the RPD and RAD found the Applicant established that he practices Hoa Hao. Nothing in the Decision suggests that the RAD based its credibility findings on the Applicant's inability to provide details about his religious practice. Further, while I note the Applicant testified at the RPD with an interpreter's assistance, the Applicant and his counsel did not present any submission or evidence before the RPD about his lack of sophistication and how it may have affected his ability to testify.

[11] While accepting the Applicant as a Hoa Hao practitioner, the RAD found the Applicant did not credibly establish his remaining allegations on a balance of probabilities standard. These allegations include that the police visited the family home and issued an arrest warrant, that the Applicant practised with or was associated with a politically active Hoa Hao group in Vietnam, and that the police are interested in him in connection with any such practice or group.

[12] Citing the Applicant's evolving testimony about the police visit, the arrest warrant and the circumstances of his practice, together with the lack of details in the corroborative evidence, the RAD found the RPD was correct in disbelieving these other aspects of the Applicant's evidence.

[13] The Applicant submits he was nervous at the RPD hearing and that was why he provided inconsistent answers, and the RAD should have given him the benefit of the doubt. I am not persuaded by this argument because the Applicant never raised any concern during the hearing about his discomfort. Further, when asked about his evolving responses, the Applicant merely advised that he got the information from his parents.

[14] At the hearing before me, the Applicant added another argument. According to the Applicant, as the RAD assigned low weight to a letter from the Applicant's mother stating that the police were looking for him, the RAD thus accepted the letter as credible. It therefore follows that the letter established that the Applicant is a person of interest to the police.

[15] I am unpersuaded by the Applicant's argument. Even if credibility was not a concern, it is within the RAD's purview to assess whether the corroborative evidence was sufficient to establish the Applicant's allegation. In this case, the RAD noted that the brief letter from the Applicant's mother indicated that the police visited the home looking for the Applicant without any further detail as to why or when this occurred. The RAD concluded the letter was insufficient to establish the Applicant's allegation that the police were interested in him because of his association with a politically active Hoa Hao group. The RAD's finding was reasonable, particularly in view of the Applicant's evolving testimony in this area. I see no error arising from the RAD's analysis.

B. *The RAD's conclusion that the Applicant does not face a serious possibility of persecution in Vietnam was reasonable*

[16] I also find the Applicant fails to demonstrate that the RAD erred in concluding that the Applicant does not face a serious possibility of persecution.

[17] The Applicant takes issue with the RAD's finding that the Applicant had established himself as a Hoa Hao practitioner but that he may not be persecuted or face any problems due to his faith, despite "knowing that it is not allowed in Vietnam." The Applicant also submits that,

contrary to the information in the country conditions documentary evidence, all places of worship are controlled by the Vietnamese government, not just those of the politically active Pure sect. Finally, the Applicant submits that “it is just an eye wash that any or all religion are allowed in Vietnam.”

[18] The Respondent submits that the Applicant’s submission is “untenable, problematic and meritless.” The Respondent further argues that the Applicant makes a sweeping general statement concerning the state of religion in Vietnam that is not supported by any subjective or objective evidence the RAD considered, in coming to their decision.

[19] I agree.

[20] The Applicant does not point to any objective evidence that the RAD may have ignored. The Applicant’s arguments amount to a disagreement with the Decision without identifying any reviewable error. If the Applicant wishes to suggest the RAD could disregard objective country conditions evidence in rendering its decision, that argument runs contrary to well-established jurisprudence and must be rejected.

### III. Conclusion

[21] The application for judicial review is dismissed.

[22] There is no question for certification.

**JUDGMENT in IMM-7113-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Avvy Yao-Yao Go"

---

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-7113-23

**STYLE OF CAUSE:** TUNG LAM NGUYEN v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD VIA VIDEOCONFERENCE

**DATE OF HEARING:** OCTOBER 3, 2024

**JUDGMENT AND REASONS:** GO J.

**DATED:** OCTOBER 10, 2024

**APPEARANCES:**

Rajender Singh FOR THE APPLICANT

Gerald M. Grossi FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

RST Law Professional Corp FOR THE APPLICANT  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario