

Date: 20080314

Docket: IMM-2459-07

Citation: 2008 FC 346

Ottawa, Ontario, March 14, 2008

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

SI HUI HUANG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Mr. Huang is a 27 year old Chinese citizen who claims to fear persecution by the Chinese authorities due to his membership in an underground Christian church which was raided on June 25, 2006, while he was not present. This application is for judicial review of the decision of the Refugee Protection Division (RPD), dated May 29, 2007, that he was neither a Convention refugee nor a person in need of protection.

[2] The applicant is from a rural area and has a grade seven education. He worked in the rice fields or on fishing boats. On July 8, 2005, the fishing boat Mr. Huang and his uncle were on was

hit by a larger vessel, which accident sent Mr. Huang to hospital and killed his uncle. He states that he became depressed and, after some time, joined an underground church at the instigation of a friend. He describes a small church whose members treated him as family and helped him to overcome his depression.

[3] On June 25, 2006, after three and a half months' membership in the church, Mr. Huang claims it was raided by the Chinese authorities and six members of the congregation were arrested. Mr. Huang had not been present at the service, as he was caring for his ill mother. He was alerted by the friend who had initially introduced him to the church, and who had managed to escape the raid.

[4] Mr. Huang fled to a friend's house, and learned from his mother that the authorities had searched his family's home on June 26th, ordering him to report by June 30th. On July 1st, they returned to look for him again, as he had remained in hiding. The friend with whom he had been staying helped him to find a "snakehead" or human trafficker and he fled to Canada, arriving July 14, 2006.

[5] After a hearing on May 14, 2007 with the aid of an interpreter, the Panel found that Mr. Huang was not credible as a member of an underground Christian church as he had insufficient knowledge of Christianity, citing several specific instances of failure to know the details of Christian tenets.

[6] While the applicant raised several issues, it is my view that the main issue raised in this application is whether the RPD was unreasonable in finding that the applicant was not credible in claiming to be a Christian.

[7] This hearing was conducted prior to the judgment of the Supreme Court in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] S.C.J. 9 which modified the standards on which judicial reviews are to be conducted. The review of an RPD finding of credibility prior to that decision was to be assessed on a patent unreasonableness standard. *Dunsmuir* eliminates the distinction between reasonableness *simpliciter* and patent unreasonableness. I will, therefore, assess whether the decision of the RPD was unreasonable. I note that, in the instant case, the change in standards of review does not alter the outcome I would have reached prior to *Dunsmuir*.

[8] The applicant submits that the Board's finding was based on unattainable and unreasonable requirements for knowledge of the Christian faith. The applicant had, at the time of the hearing, been exposed to Christianity for just over a year. He showed a reasonable level of knowledge of the faith in those circumstances. The applicant also asserts that his level of knowledge of Christianity should not be a determinative factor in an assessment of whether he is indeed a Christian.

[9] The respondent contends that the applicant bore the burden of proving his claim, based on his alleged religious beliefs. He was unable to show that he possessed a reasonable familiarity with the services of the underground church or even a basic grasp of Christianity. The Board member supported her findings with ample reasons and her decision should not be vacated.

[10] Mr. Huang is a young man with little education, who was raised in a country where the Christian faith is not part of the social fabric. From the transcript of the hearing, it is clear that his few points of error on doctrinal issues are vastly outweighed by his knowledge of the Christian faith. The RPD appears to have been overly focused on those few points of error or misunderstandings to a level which reached the microscopic analysis criticized in *Attakora v. Canada (Minister of Employment and Immigration) (F.C.A.)*, (1989), 99 N.R. 168, [1989] F.C.J. No. 444, and subsequent cases.

[11] The Board member's standard for knowledge of Christian doctrine was unrealistically high, and she was clearly weighing his description of a standard service at the underground church against her own idea of how a service unfolds. I cannot find her decision reasonable, given the personal circumstances of the applicant and his evidence.

[12] For these reasons, the decision of the RPD is vacated and Mr. Huang's case is to be assessed by a differently constituted Panel. Neither party proposed a question for certification.

JUDGMENT

IT IS THE JUDGMENT OF THIS COURT that this application is allowed. No questions are certified.

“ Richard G. Mosley ”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-2459-07

STYLE OF CAUSE: SI HUI HUANG

and

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: February 26, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** MOSLEY, J.

DATED: March 14, 2008

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