

Federal Court



Cour fédérale

**Date: 20110420**

**Docket: IMM-4712-10**

**Citation: 2011 FC 474**

**Ottawa, Ontario, April 20, 2011**

**PRESENT: The Honourable Mr. Justice Rennie**

**BETWEEN:**

**GODDY HODANU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The is an application for judicial review pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*) of a decision rendered August 25, 2010 by the Refugee Protection Division of the Immigration and Refugee Board of Canada (the Board), whereby the applicant's application for refugee protection was refused. The determinative issue in the decision was the applicant's identity and his credibility as a witness.

***Facts***

[2] The applicant testified that in January 1992, while he was a student at the University of Yaounde, in the Francophone area of Cameroon, he joined the Social Democratic Front (SDF), an organization whose objective was to raise awareness concerning the marginalization of anglophone Cameroonians. He remained active in that organization until 1995. A month after joining the SDF, the applicant joined the Southern Cameroon National Council (SCNC) and remained a member until his departure from Cameroon in September 2008. The applicant became a Lutheran pastor in 1999.

[3] He was arrested three times in Cameroon for his political activities: on May 26, 1993, June 22, 2003, and February 10, 2005. Each of these arrests were as a result of his participation in political rallies. On May 10, 2008, the applicant invited a constitutional lawyer to come speak to his congregation about the recent changes to the constitution made by the President of Cameroon in order to make himself a “life president”. After this talk, the security forces came to his house and arrested him.

[4] Two weeks after his release, the applicant was warned by friends that a warrant had been issued against him. At that point, the applicant went into hiding until he procured travel documents so that he could come to Canada.

[5] The applicant arrived in Canada on September 13, 2008 and made a claim for refugee protection on September 15, 2008.

*Decision Under Review*

*Identity*

[6] The Board accepted the fact that the applicant had lived in Cameroon, however, it found that the applicant had failed to establish his personal or national identity. The applicant provided two identity documents to the Board; his birth certificate and his driver's license.

[7] The Board found that the driver's license was endorsed for a larger vehicle. However, in his testimony, the applicant stated that he was not qualified to drive anything except for vehicles with less than nine passengers. As the documentary evidence showed that forged driver's licenses were common in Cameroon, the Board gave this document little weight.

[8] The second identity document was a birth certificate issued in 1990. The Board was troubled by the fact that the document did not reflect a registry entry, even though the applicant said that he had a birth certificate before 1990. As such, the Board gave little weight to this document.

[9] The Board also took issue with the applicant's assertion that he was a pastor at a Church in Kumba from 1999 to 2008, but did not provide a letter from the congregation attesting to his employment. The Board found that this undermined the applicant's identity.

*Credibility*

[10] Under section 106 of the *IRPA*, the Board must assess the applicant's credibility in cases where the applicant has failed to provide the Board with adequate identity documents. The Board negatively assessed the applicant's credibility as a witness.

[11] This assessment was based on the documents provided by the applicant, his testimony, inconsistencies in details about his arrests, and his failure to provide evidence of his work as a pastor in Cameroon.

[12] More specifically, to demonstrate his political involvement, the applicant provided a letter attesting to his support of the SCNC. The Board had several issues with this letter. The letterhead included only half of the SCNC's motto and stated that the applicant had been a member since 1992, even though documentary evidence, including the World Book Index and a Response to Information Request (RIR) states that the SCNC was founded in 1995. As a result, the Board did not give any weight to this letter.

[13] The applicant also provided his membership card to the SCNC. The Board found that the document did not appear to have "spent 18 years in a humid African climate", and there was no wet seal impression over the photograph. The card also stated that the applicant was a member since 1992, again, ante-dating the existence of the very organization. The documentary evidence also suggests that there were fraudulent SCNC cards in circulation. As a result, the Board did not give any weight to the card.

[14] The Board found, on the balance of probabilities, that the applicant was never a member of the SCNC and that claim of membership was intended to enhance his claim.

[15] The Board was also concerned by the inconsistencies between the applicant's Personal Information Form (PIF) and a letter of support from a lawyer in Cameroon that his last arrest took place in mid-May 2008, whereas the applicant testified that it took place in July 2008. The Board stated that the applicant only explained the contradiction when confronted with it and that his explanation was not reasonable.

[16] When considered with the whole of the applicant's testimony the Board found that the applicant was not credible and trustworthy. Moreover, because the applicant was not a credible witness, there was no evidence to demonstrate a personalized risk. As a result, there was no credible evidence before the Board that the applicant faced a serious possibility of persecution on a Convention ground, and therefore, the Board found that the applicant was not a Convention refugee under section 96 of the *IRPA*.

### ***Analysis***

[17] The onus is on the applicant, pursuant to section 106 of the *IRPA*, to establish his or her identity by producing acceptable documentation. If he or she cannot do so, the Board must consider whether the applicant has reasonably explained the lack of documentation or taken reasonable steps to obtain documentation: see *Qiu v Canada (Citizenship and Immigration)*, 2009 FC 259 at para 6; *Zheng v Canada (Citizenship and Immigration)* 2008 FC 877 at para 14. Where identity is not

established it is unnecessary to further analyze the evidence and the claim: *Qiu* at para 14; *Zheng* at para 15.

[18] The applicant submitted his driver's license and his birth certificate as proof of his identity. The Board gave little weight to these documents because of inconsistencies between the documents and the applicant's testimony and concerns about the widespread availability of fraudulent documents in Cameroon.

[19] When the Board is concerned about the genuine nature of an identity document it is essential for the Board to consider the totality of the applicant's evidence, including any explanations the applicant provides: see *Jiang v Canada (Citizenship and Immigration)*, 2007 FC 1292 at para 7. This is because, as Justice Von Finckelstein noted in *Cheema v Canada (Minister of Citizenship and Immigration)*, 2004 FC 224, evidence of widespread forgery is not, on its own, sufficient to reject a document as a forgery.

[20] Therefore, it would be improper for the Board to give little weight to identity documents solely because there is general evidence that shows that these types of documents are frequently forged. The Board must have something else to base its conclusions on, which the Board in this case did: there were discrepancies arising on the face of the identify documents and the inconsistencies in the applicant's evidence with respect to explanations offered in response to the inconsistencies.

[21] When examining the applicant's identity, the Board must arrive at its conclusions based on the totality of the evidence before it: *Zheng* at para 15; *Jiang* at para 2. In the case before it, the

Board reasonably considered as inadequate the explanation about the applicant's driver's license and why he was licensed to drive larger vehicles that could carry more than nine passengers when he said he could only drive a small car. This, in combination with evidence in the RIR that there is widespread forgery of driver's licenses in Cameroon, grounded the Board's finding and made the conclusion with respect to identity reasonable.

[22] Section 106 of the *IRPA* requires that an applicant's credibility be assessed in light of his or her failure to provide adequate identity documents. In assessing the applicant's credibility the Board analyzed evidence pertaining to his involvement with the SCNC, as established by his membership card, a letter from the local branch of the SCNC and his arrest in 2008.

[23] In respect of each of these issues, the Board made findings of credibility. The Board found that there was no credible evidence to support the applicant's claims of involvement with the SCNC or persecution because of that involvement and his political beliefs more generally. As a result of these credibility findings, the Board found that there was no serious possibility of persecution on a Convention ground.

[24] The Board based its negative credibility finding regarding the SCNC letter and membership card on concerns arising on the face of the documents themselves, such as the fact that the letterhead only contained half the motto, and that there was no wet seal impression on the photograph of the card, which led to concerns that the documents were forgeries.

[25] Moreover, the applicant provided inconsistent evidence about the date or month in which he was arrested in 2008. This was the precipitating event, and the discrepancy of two months between the date of arrest as described in his narrative and his testimony, when combined with problematic evidence of SCNC membership provided an evidentiary foundation for the Board's credibility finding.

[26] The applicant relies on a trilogy of cases *Djama v Canada (Minister of Employment and Immigration)* [1992] FCJ No 531 (FCA), *Xu v Canada (Minister of Employment and Immigration)* [1992] FCJ No 810, and *Salamat v Canada (Immigration Appeal Board)* [1989] FCJ No 213, for the proposition that the Board must consider all aspects of the claim, even if some aspects are not credible and must not reach a conclusion that is inconsistent with the preponderance of relevant evidence.

[27] The Board did not do any of these things. Rather, it considered the evidence given by the applicant, including his oral testimony, his submitted documents, and his affidavit. The Board gave specific reasons why it gave little weight to the documents submitted. The Board had the opportunity to question the applicant and observe his response. The Board has good reason to question the applicant's credibility. While he claimed to have graduated from university with a degree in Arts and Letters, and to have studied English literature, he offered *Macbeth* as evidence, but could not describe an element of the story; he then claimed to have studied *Canterbury Tales*, but said Shakespeare was the author.



[28] Counsel for the Minister fairly conceded that on many of these findings the Board could have reached a different conclusion. Counsel for the applicant, for his part, identified clearly how alternative conclusions could have been rationally reached. It is not the role of this Court to substitute its view on the evidence; rather, the question is whether the decision is within the scope of the discretion accorded to the Board, or put otherwise in the classic formulation, within the range of reasonable outcomes based on the evidence before the Board. In this case, while I agree with the applicant's counsel that different conclusions could have been reached, that is not the test. The issue is whether the decision, viewed as whole, withstands scrutiny. For the reasons noted, I find that it does.

[29] This application for judicial review is dismissed.

[30] No question has been proposed for certification and none arises.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review be and is hereby dismissed. No question for certification has been proposed and none arises.

"Donald J. Rennie"

---

Judge

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

**DOCKET:** IMM-4712-10

**STYLE OF CAUSE:** GODDY HODANU v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto

**DATE OF HEARING:** April 12, 2011

**REASONS FOR JUDGMENT  
AND JUDGMENT:** RENNIE J.

**DATED:** April 20, 2011

**APPEARANCES:**

Mr. Solomon Orjiwuru FOR THE APPLICANT

Mr. Bradley Bechard FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Solomon Orjiwuru FOR THE APPLICANT  
Barrister & Solicitor  
Toronto, Ontario

Myles J. Kirvan, FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Ottawa, Ontario