

CANADA / JUDGMENT

VB9-05872

COURT

Refugee Appeal Division

DECIDED

5 February 2020

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RAD File / Dossier de la SAR : VB9-05872

VB9-05873

Private Proceeding / Huis clos

Reasons and decision ? Motifs et décision

Persons who are the subject of the appeal

XXXX XXXX XXXXXXXXX XXXX

Personne|s en cause

Appeal considered / heard at

Toronto, ON

Appel instruit / entendu à

Date of decision

February 05, 2020

Date de la décision

Panel

M. Oh

Tribunal

Counsel for the person|s who is|are the subject of the appeal

Douglas R Cannon

Conseil de la|des personne|s en cause

Designated representative

N/A

Représentant(e) désigné(e)

Counsel for the Minister

N/A

Conseil du ministre

REASONS FOR DECISION

OVERVIEW

- [1] XXXX XXXX ("the Principal Appellant") and his wife, XXXX XXXX ("the Associate Appellant") are citizens of the People's Republic of China. They claim to fear persecution by the Chinese government due to their religion as Christians. The Refugee Protection Division ("RPD") rejected their claims due to their lack of credibility. The Appellants appeal the decision, arguing that the RPD erred in its credibility analysis. They also say that the RPD failed to consider the objective evidence, and erroneously determined that their fears of persecution had no nexus to a Convention ground.

DETERMINATION

- [2] Pursuant to paragraph 111(1)(a) of the Immigration and Refugee Protection Act ("IRPA"), the appeal is dismissed. On an independent assessment, I agree with the RPD that the Appellants' allegations lack credibility and that they are not genuine Christians. The Refugee Appeal Division ("RAD") therefore confirms the RPD's negative determination.

BACKGROUND

- [3] The Principal Appellant describes that he was introduced to Christianity by his parents, who hosted Christian gatherings in their home. In 1989, the Principal Appellant learned of these gatherings and became interested in joining. The Principal Appellant attended weekly gatherings, where he and other attendees would pray, share stories, study the Bible, and celebrate Christian holidays together. The Associate Appellant eventually began to join him in religious gatherings in 2000.
- [4] On XXXX XXXX XXXX 2013, the Principal Appellant's parents held an Easter celebration at their home. The Principal Appellant attended, but the Associate Appellant did not- due to work. Later that afternoon, police officers raided the gathering and detained all of the attendees. They confiscated bibles, hymn books, a crucifix, and gifts that they had intended to exchange at the celebration. The Principal Appellant claims that he was detained for six days, interrogated, and tortured. The Associate Appellant managed to pay a fine of XXXX RMB for the Principal Appellant and his parents each to be released.

- [5] The Principal Appellant was terminated from his job in late XXXX 2013 due to his participation in an underground church. He was required to report to the police station on a regular basis. The Appellants attended a state-sanctioned church in order to show their obedience, though they still attended illegal Christian gatherings from time to time when they moved to Yanji City. The Appellants discussed the possibility of leaving China and decided to come to Canada. The Appellants obtained two-year work permits and traveled to Canada in XXXX 2016. They applied for Canadian permanent residence, which was refused. In XXXX 2018, just prior to the expiration of their work permits, they initiated their claims for refugee protection.
- [6] The RPD heard the Appellants' claims on April 9, 2019 and issued a written decision on July 5, 2019. The RPD made several adverse credibility findings and determined that the Appellants were not genuine Christians.

Role of the Refugee Appeal Division

- [7] The jurisprudence establishes that the RAD is required to undertake an independent assessment of the evidence and reach its own determination. Deference is owed to the RPD only where the RPD held a meaningful advantage in assessing evidence.¹
- [8] In the present case, I see no reason to show deference to any of the RPD's findings. I have applied a correctness standard and arrived at independent findings based on the evidence before me.

New Evidence

- [9] The Principal Appellant indicates in an affidavit that upon speaking to his counsel about some of the answers that he gave at his refugee hearing, he became concerned that some of the answers may not have been correctly interpreted at the hearing. The affidavit, dated XXXX XXXX XXXX 2019, indicates that counsel had only just received the audio recording of the hearing, and that it would take some time to review it to ensure that the interpretation at the hearing was accurate.
- [10] The memorandum of argument indicates that there may be possible interpretation errors, and that if evidence of such errors arises, an application will be made to make further arguments. To date, however, the RAD has not received any new evidence or additional submissions. There has been no further correspondence to indicate that the Appellants intend to make an application under Rule 29 of the Refugee Appeal Division Rules. As almost six months have passed since the perfection of the appeal, the RAD will proceed to consider and finalize the present appeal in the absence of new evidence.

ANALYSIS

- [11] The Appellants argue the following in their memorandum of argument:

- a) That the RPD erred in its assessment of their knowledge of Christianity;
- b) That the RPD erred in law by failing to consider the objective evidence; and
- c) That the RPD erred in its determination that the Appellants' fears of persecution did not have a nexus to a Convention ground.

[12] For the reasons that follow, I find no error in the RPD's reasons.

- a) Whether the RPD erred in its assessment of the Appellants' knowledge of Christianity

[13] The Appellants argue that the RPD made errors in assessing their knowledge of Christianity. I am unpersuaded by these arguments.

The RPD's assessment of the Appellants' Christian knowledge

- [14] The RPD made numerous credibility findings and ultimately determined that the Appellants were not genuine Christians. Most of those credibility findings have not been contested on appeal.
- [15] The finding that the Appellants challenge is around their failure to demonstrate even a basic knowledge of the Holy Bible despite claiming to have studied the Bible for many years. The RPD noted that the Principal Appellant required prompting when asked to relate a favourite Bible story. In addition, in response to these questions, the Appellants began to relate stories that are not actual Bible stories. For instance, the Principal Appellant discussed how the world was created by seeds. He recounted how Jesus and John the Baptist had a conflict over which of them had invented baptism. The Principal Appellant also testified how Jesus told his disbelieving disciples how they could walk on water and how they then successfully walked over a river. The Associate Appellant told a story about how Jesus agreed to save a child's sick uncle in exchange for one dollar. The RPD found that it was very damaging to their credibility that neither of them could accurately relate a single story of their own choosing from the Bible despite claiming to have studied it for many years.

The Appellants' arguments

- [16] The Appellants argue that they demonstrated a sufficient knowledge of Christianity and that although they are unsophisticated in their knowledge of scripture, they are in fact sincere Christians.
- [17] The Appellants argue that the RPD's findings about their knowledge of the Bible are factually incorrect. The Principal Appellant says that, contrary to the RPD's finding, he did not require prompting when questioned about his favourite Bible story. There was merely a misunderstanding around the RPD's question, but the Appellants say that he otherwise answered promptly. With respect to the creation story, the Appellants say that in the Book of Genesis, Chapter 1, verse 29, the Bible in fact mentions how God provided herbs and trees with fruit bearing seed. In addition, stories about the death of John the Baptist and about Jesus walking on water are contained in the Bible, such as in the Book of Matthew. The fact

that the Principal Appellant had difficulty providing details about the story about John the Baptist is unsurprising since the RPD was asking him to explain a passage that he had difficulty understanding. He denies having stated that the conflict was over who invented baptism. The Appellants emphasize that in the testimony about Jesus walking on water, the Associate Appellant also stated that if you believe in God, you can do anything.

- [18] In any event, the Appellants submit that what matters is not their knowledge of scripture, but the genuineness of their testimony about the aspects of their faith that were important to them. For the Appellants, the social aspects of their Christian community were important and meaningful to them, yet the RPD discredited their faith simply because of their unsophisticated knowledge of scripture. They say that the RPD should have focused on the testimony they gave about their feelings about their Christian community and the importance of the social aspects of their faith.

The RAD's independent assessment

- [19] I agree with the RPD that the Appellants are not genuine Christians on a balance of probabilities. Though I do not question the possibility that social aspects of Christian practice may be equally important to an individual as their knowledge of the religion, the RPD was correct to test whether the Appellants had basic knowledge about Christianity that accorded with their claimed experiences.
- [20] The jurisprudence recognizes the potential unfairness of testing religious knowledge. Assessing the genuineness of a person's faith by way of trivia would be an error. However, it is not improper for the RPD to engage in religious questioning in an effort to gauge the genuineness of a person's beliefs. The RPD is entitled to consider whether the refugee claimant holds a level of religious knowledge that would be expected of someone in the claimant's position.²
- [21] In the present appeal, the Appellants claimed to have been Christians for many years. They are also relatively well-educated individuals. Both have completed at least some amount of post-secondary education. The Principal Appellant began to attend Christian gatherings on a regular basis since 1989. His wife began to attend in 2000. They alleged that they studied the Bible during their gatherings and that they had been attending Bible study in Canada. The Principal Appellant even claimed that, having attended both a state-sanctioned church and an underground church, he could attest to how the state-sanctioned church had a totally different interpretation of the Bible as compared to his underground house church. Given the length of their practice and their testimony about their religious activities over the years, I find it reasonable to expect that the Appellants would be capable of relating at least some Bible stories when invited to speak about stories of their own choosing. They could not.
- [22] It is true that there was some misunderstanding when the Principal Appellant was questioned about his knowledge of the Bible. Initially, the RPD asked him to talk about the most difficult Bible teaching for him. When the Principal Appellant could not understand

what was being asked of him, the RPD changed its question, this time asking him to talk about his favourite Bible teaching. The Principal Appellant stated that it was the creation of human beings and the world. The RPD then asked the Principal Appellant to expand on this and why he liked it. I agree with the RPD that the Principal Appellant required prompting. He gave his evidence in a piecemeal fashion, likely because he was not able to recount the story of creation, as he later admitted. He merely stated that people were pure in that period and that they were not complicated. When asked how the Bible says that the world was created, the Principal Appellant could not recall. He stated that he could only remember that the world was created by some seeds.³ It is in this manner that the Principal Appellant required prompting. Although I acknowledge that the Book of Genesis mentions that God created plants and trees with fruit bearing seeds, this is clearly different from the Principal Appellant's testimony that the world was created by some seeds.

- [23] Similarly, when asked by the RPD to recount her favourite Bible story, the Associate Appellant told a story about how a child approached Jesus for him to cure his uncle in exchange for one dollar. She could not recall what part of the Bible this came from, and later denied having read it from the Bible. She explained that it was a story told by her priest, which she believed was based on the Bible. The RPD was transparent about its concern. It noted that it had so far not heard either of them tell a single story from the Bible. When pressed to recount any story from the Bible, the Principal Appellant described that Jesus walked on a river and that his unbelieving disciples asked how it was possible. According to the Principal Appellant, Jesus told them that if they tried it themselves, they too could walk on the river. Although they could not believe it, they too walked over the river successfully. When asked whether there were any stories from the Bible that he found difficult to understand, the Principal Appellant mentioned that that there was some conflict between Jesus Christ and St. John over who invented baptism. Though the Appellants deny that they indicated that the conflict was over who had invented baptism, their own hearing transcript contains the following:

PRINCIPAL CLAIMANT: There is a part of the Bible I don't quite understand it that would seem to me some conflict between Jesus Christ and John - and St. John and that there seem to be - they seem to be have some conflicts and hot tempers between the two of them. [Emphasis added] One of them was killed by the soldiers, but I don't remember the detail.

RPD: One of which - of who? Who was killed?

PRINCIPAL CLAIMANT: John. John was killed by the soldiers but - yes, it was John killed by the armies, by the soldiers. Yeah, John claimed that he was the one who invent baptism and Jesus Christ simply learned the technique and the practice from him. [Emphasis added] What I don't understand is the story about the cause of the death of John.⁴

- [24] I share the RPD's interpretation of the Principal Appellant's testimony. He indicated that there was a conflict between Jesus and John the Baptist over which of them had invented baptism. As explained by the Principal Appellant in his testimony, the source of his confusion in relation to this story was the cause of John the Baptist's death. I see no explanation for his description about John the Baptist's invention of baptism and some heated conflict between he and Jesus over this or some other matter.
- [25] The Appellants point out that the stories about the death of John the Baptist and Jesus walking on water are actual Bible stories. The fact that the stories they told have some factual connection to actual Bible stories does not satisfy me that they are genuine Christians, nor is it sufficient that the Principal Appellant saw some significance in Jesus' walking on water and its connection to the power of faith. It should be recalled that the Principal and Associate Appellants were both asked to recount their "favourite" Bible stories or stories from the Bible that had significant meaning to them. When they could do neither, the RPD eventually just asked that they relate any story from the Bible. The RPD was very transparent about its concern that the Appellants could not recall a single story from the Bible. They had every opportunity to demonstrate what they had learned from years of Bible study. It is telling that the Principal Appellant could remember so little from the story that he chose to share as being his favourite, and that the Associate Appellant too struggled to accurately recount stories from the Bible of her own choosing. I agree with the RPD that this undermines the genuineness of the Appellants' faith as Christians. The inability of both of the Appellants to adequately recall any Bible stories despite many years of studying the text is simply not credible.
- b) Whether the RPD erred in law by failing to consider the objective evidence
- [26] The Appellants also argue that the RPD failed to carefully consider the objective evidence in their case. I do not agree that there is any error here.
- [27] The Appellants rely on two Federal Court cases, Kabongo⁵ and Francois⁶, which discuss errors that occur when the RPD engages in circular reasoning to discount relevant corroborative evidence. It is an error to reject a person's evidence as lacking in credibility, and then reject other evidence because it is inconsistent with the credibility conclusion that has already been reached. The Appellants seem to further argue that even if the only sincere aspect of the Appellant's faith is the social element of their Christian practice, from the perspective of the persecutor, the Appellants were still engaged in illegal gatherings, and this is sufficient to create a risk for them in China.
- [28] I am unable to agree with this argument. The RPD's credibility findings had an impact on much more than the genuineness of the Appellants' faith. Apart from the findings mentioned above, there were several other credibility findings that were material to the events that occurred in China as well as the likelihood that the Appellants would actually attend Christian gatherings in China. These credibility findings were not contested on appeal. In my view, the most significant of these are the following:

* That the Appellants gave inconsistent testimony about their daughter's awareness and involvement in their Christian activities. At first, the Appellants testified that their daughter was unaware that they were Christians even when they all came to Canada together in 2016. They explained that they were hiding their beliefs from their daughter in order to protect her. Though their daughter's letter indicates that the Appellants hid their faith from her and that they continued to hide their Christianity from her while they were in Canada, this evidence was all later contradicted by the Appellants' own testimony, when they testified that their daughter attended church activities with them while they were in China.

* Contrary to a document in evidence about the Principal Appellant's termination due to his participation in an underground church in 2013, the Principal Appellant indicated in his work permit application that he was employed with that same company until 2015. He even submitted documents from the company stating that he was working for them during the time when he had supposedly been terminated.

* Despite having experienced religious persecution and despite continuing to fear it, the Appellants took little action for three years following the detention. They claimed to have researched other countries, but had only looked into the possibility of going to Korea and Japan. Their failure to inquire into the possibility of going elsewhere, and taking no other action for three years, undermined the credibility of their allegations.

* That despite claiming to have come to Canada for its religious freedom, the Appellants did not attend any church during their first year in Canada. The RPD found that it was not credible that they would wait a year before going to a church in Canada if in fact they fled from China because of the religious freedom they wished to experience in Canada.

[29] I agree with the above findings. The findings cast significant doubt on whether the Principal Appellant was actually detained for his participation in an underground church and terminated from his job because of it. They cast doubt on whether the Appellants in fact attended an underground church and whether they were really seeking religious freedom abroad.

[30] As to whether the RPD simply dismissed corroborative evidence that was inconsistent with its conclusions about the Appellants' credibility, I find that this is not the case. The RPD addressed the supporting documents submitted in the claim. The letter from the daughter could not be given weight, since it contradicted the Appellants' own testimony. The termination notice from the Principal Appellant's employer contradicted evidence in the Principal Appellant's work permit application. The medical evidence had little probative value in terms of its ability to corroborate the causes of the injuries noted.

[31] With respect to the support letters from family and friends, I agree with the RPD that they do not deserve any significant weight. I do not believe the RPD failed to consider the evidentiary value of this evidence. The RPD was merely weighing the evidence that was before it. The Federal Court provides a useful discussion of the concepts of weight, credibility, and probative value in *Magonza v. Canada (Citizenship and Immigration)*, 2019

FC 14 ("Magonza"). The weight of evidence is described as the persuasiveness of some evidence in comparison with other evidence. It is what counts in the ultimate balancing of the evidence that tends to prove or disprove a relevant fact. Weight, as described in Magonza, is a function of credibility and probative value.⁷ When faced with serious credibility issues concerning the very facts addressed in the support letters from family and friends, the RPD was not willing to simply believe the untested evidence contained in the letters. The RPD considered them, but found that they were insufficient. I am satisfied that the RPD correctly weighed the evidence. I come to the same conclusion that the support letters do not outweigh the credibility concerns in this case.

- [32] With respect to the letter from the Appellants' church in Canada, I consider that the Appellants only began to attend the church in XXXX 2017, a few months before initiating their refugee claims. I do not doubt their actual attendance there, but like the RPD, I too doubt the genuineness of their motivations for attending that church.
- [33] In summary, I agree with the RPD. I find that the Appellants' supporting documents are insufficient to establish the core allegations, as there were significant credibility issues that far outweigh the supporting documents.
- c) Whether the RPD erred in its determination that the Appellants' fears of persecution did not have a nexus to a Convention ground
- [34] Finally, the Appellants argue that the RPD erred in its conclusions about whether the Appellants' fears of persecution have a nexus to a Convention ground. I do not agree that there is an error here.
- [35] According to the Appellants, the RPD concluded that there was no nexus as a result of its finding that they are not genuine Christians. The Appellants go on to argue that nexus is measured from the perception of the persecutor and whether the persecutor believes that the Appellants are participants in an illegal underground church. Even if the Appellants are not genuine Christians, the persecution they face may still have a nexus.
- [36] I disagree. In my view, the Appellants misinterpret the RPD's reasons. The confusion appears to arise from the RPD's statement at paragraph 27 of the reasons. There, the RPD stated:

I find, on a balance of probabilities, that the claimants have failed to produce sufficient credible evidence that they are genuine followers of the Christian faith, and as such, they have no nexus to a convention ground, nor are they persons in need of protection under the provisions of s. 97(1) of IRPA.⁸

- [37] Though the RPD might have chosen clearer words to communicate its conclusion, the RPD did not doubt that there was a nexus to religion in this case. The reasons clearly demonstrate that the claim was decided on the basis of credibility. The RPD was not satisfied that the Appellants were genuine Christians. It did not believe the core allegations about their practice in China, the detention, the reasons for the Principal Appellant's termination from

work, or the genuineness of their faith. The reasons reveal that the RPD did not fail to consider the perspective of the persecutor. The RPD went on to consider the sur place aspect of the claims; that is, whether the Appellants might still face persecution in China as a result of their attendance at church in Canada, notwithstanding their lack of credibility about the genuineness of their faith. On this issue, the RPD considered that the evidence did not establish that Chinese authorities targeted individuals who were attending Christian churches abroad. The RPD correctly considered these issues and I am not satisfied that any material error arises from the phrasing of its conclusions.

CONCLUSION

[38] On an independent assessment, I agree that the Appellants' allegations lack credibility. I too find that the Appellants are not genuine Christians, that they did not practice Christianity in China as they alleged, and that the Principal Appellant was not detained or terminated from work due to his Christian faith. As they are not genuine Christians, I am not satisfied that the Appellants would attend any underground house church in the event of their return to China. I therefore confirm the RPD's negative determination. The Appellants are neither Convention refugees nor persons in need of protection.

[39] The appeal is dismissed, pursuant to paragraph 111(1)(a) of the IRPA.

(signed)

"M. Oh"

M. Oh

February 05, 2020

Date

1 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93 (CanLII), [2016] 4 FCR 157; see also Rozas Del Solar, Paola v. Canada (Citizenship and Immigration), 2018 FC 1145.

2 Gao v. Canada (Citizenship and Immigration), 2015 FC 1139 (CanLII), at paras 22-26.

3 Exhibit P-2, Appellants' Record, at p. 28.

4 Exhibit P-2, Appellants' Record, at p. 34.

5 Kabongo v. Canada (Citizenship and Immigration), 2012 FC 313 (CanLII), at para 11.

6 Francois v. Canada (Citizenship and Immigration), 2018 FC 687 (CanLII), at para 14.

7 Magonza v. Canada (Citizenship and Immigration), 2019 FC 14 (CanLII), at paras 27-29.

8 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 9, para 27.

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Immigration and Refugee

Board of Canada

Refugee Appeal Division

Commission de l'immigration

et du statut de réfugié du Canada

Section d'appel des réfugiés

RAD.25.02 (April 04, 2019)

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