

Federal Court



Cour fédérale

Date: 20250527

Docket: IMM-8912-23

Citation: 2025 FC 948

Ottawa, Ontario, May 27, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

JIE CHEN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Jie Chen (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”), dismissing his appeal from a decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”). In its decision, the RAD confirmed the finding of the RPD that the Applicant is neither a Convention refugee nor a person in need of protection within the meaning of section 96 and subsection 97 (1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of China. He sought protection in Canada on the basis of his religious identity and practice as a Christian and upon fear of harm from the Chinese police relative to those facts.

[3] The RAD confirmed the negative credibility findings made by the RPD about the Applicant's status as a practicing Christian.

[4] The Applicant now argues that the credibility findings were unreasonable, as allegedly based upon discrepancies between his answer at the Port of Entry ("POE") and his oral evidence before the RPD. He further submits that the decision was made without regard to the evidence. As well, he argues the RAD erred by failing to consider a *sur place* claim arising from his practice of Christianity in Canada.

[5] The Minister of Citizenship and Immigration (the "Respondent") submits that the reasons for the decision, including the negative credibility findings, reflect assessment of the evidence submitted, and that there is no basis for judicial intervention.

[6] Following the decision in *Citizenship and Immigration) v Vavilov*, [2019] 4 S.C.R. 653, the merits of the decision are reviewable on the standard of reasonableness.

[7] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is

justified in relation to the relevant factual and legal constraints that bear on that decision”; see *Vavilov*, *supra* at paragraph 99.

[8] I am not persuaded that the RAD reasonably assessed the Applicant’s credibility. The negative credibility findings were based on inconsistencies between the Applicant’s answers at the Port of Entry and his evidence before the RPD, specifically about his employment history. The RAD relied on these inconsistencies to reach a negative finding about the Applicant’s identity as a Christian.

[9] Although the Applicant did not raise the issue of a *sur place* claim in his submissions to the RAD, that issue is inherent in assessing a claim for refugee protection, especially in situation involving claims based on faith-based persecution.

[10] It is not necessary for me to address the other arguments raised by the parties.

[11] In the result, the application for judicial review is allowed, the decision is set aside and the matter is remitted to a differently constituted panel for redetermination. There is no question for certification.

JUDGMENT IN IMM-8912-23

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Immigration and Refugee Board, Refugee Appeal Division is set aside and the matter is remitted to a differently constituted panel for redetermination. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8912-23

STYLE OF CAUSE: JIE CHEN v. MCI

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 16, 2025

REASONS AND JUDGMENT: HENEGHAN J.

DATED: MAY 27, 2025

APPEARANCES:

Bilal Gul	FOR THE APPLICANT
Leanne Briscoe	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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