

Federal Court



Cour fédérale

**Date: 20150414**

**Docket: IMM-771-14**

**Citation: 2015 FC 457**

**Toronto, Ontario, April 14, 2015**

**PRESENT: The Honourable Madam Justice Mactavish**

**BETWEEN:**

**LIU, CHENGGUI  
LIU, LULU  
LIU, ZHUANGZHUANG**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**(Reasons delivered orally in Toronto on April 13, 2015)**

[1] The Refugee Protection Division of the Immigration and Refugee Board rejected the refugee claims of Liu Chenggui and his two children on the basis that they had failed to establish their identity. The applicants say that the Board erred in its treatment of their identity documents, and that they were treated unfairly by the Board, as it refused to allow them to call the RCMP Officer who conducted a forensic analysis of their documents as a witness.

[2] An identity finding is a finding of fact that goes to the heart of the Board's expertise. As a consequence, difference is owed to such findings by this Court. For the reasons that follow, I have not been persuaded that the applicants were treated unfairly by the Board. I am moreover satisfied that the Board's identity finding was reasonable. As a result, the application for judicial review will be dismissed.

I. The Board's Treatment of the Principal Applicant's Resident Identity Card

[3] As the Board noted, a Resident Identity Card (or RIC) is the most important document in establishing the identity of a refugee claimant allegedly from the People's Republic of China. After examining the RIC produced by the principal applicant, the Board was not satisfied that the person depicted in the photo on the card was in fact the principal applicant.

[4] The principal applicant attributes the difference in his current appearance from that in the photo to the fact that he had undergone cosmetic surgery to his eyelids. Even if this was true, as the Board noted, it did not account for the differences that the Board observed in various features on the principal applicant's face when compared to the person in the RIC photo, including differences in their lips, eyebrows, noses, nostrils, chins, philtra and ears.

[5] This Court has held that the Board is empowered to make findings than an individual is or is not the person depicted in a photograph, and that expert evidence on this issue is not required: *Liu v. Canada (Minister of Citizenship and Immigration)*, 2012 FC 377, at para. 10. Having found there to be material and unexplained differences between the faces of the principal applicant and the person whose photo was on the RIC, the Board's finding that the principal

applicant was not the person whose photo was on the identity card was reasonable.

## II. The Board's Treatment of the Hukou and Divorce Documents

[6] The applicants also produced what appeared to be an original Household Register (or Hukou) in the same name as was on the RIC. Having found that the principal applicant was not the person whose photo was on the RIC, the Board quite reasonably concluded that the Hukou was not that of the principal applicant.

[7] Similarly, it was also reasonable for the Board to discount a divorce document tendered by the principal applicant on the basis that the RIC number on the divorce document corresponded to the RIC that the Board had found not to be that of the principal applicant.

## III. The Board's Treatment of the Children's Birth Certificates

[8] The principal applicant also produced birth certificates for his two young children. These documents were sent for forensic examination. An RCMP document examiner noted that there was a misspelled word on one birth certificate, and that the serial number on the other certificate did not glow when exposed to ultra-violet light. Despite noting these anomalies, the RCMP report did not state with certainty that the documents were fraudulent because the officer did not have a genuine Chinese birth certificate to use for comparison purposes.

[9] However, the Board itself had specialized knowledge of Chinese birth certificates. The Board knew that genuine birth certificates have a security feature that causes the documents to

glow under ultra-violet light, and that fraudulent birth certificates frequently misspelled the very word that was misspelled on the second birth certificate. It was based upon the combination of the RCMP's forensic findings and the Board's specialized knowledge that the Board reasonably concluded that the birth certificates did not satisfactorily establish the identity of the two children.

#### IV. The Board's Refusal to Issue a Summons

[10] Finally, the applicants say that it was unfair for the Board to have refused to issue a summons to compel the RCMP officer to appear before it to explain the forensic report. I do not agree.

[11] The applicants have not taken issue with the actual findings made in the forensic analysis as to the anomalies that appeared in the face of the two birth certificates. What they wanted to do was to question the "inconclusive" finding as to the authenticity of the two documents. However, as was noted earlier, the Board did not draw any conclusions from the fact that the RCMP could not say for sure that the documents were fraudulent, but relied instead on its own specialized knowledge to reach that conclusion.

[12] It is not clear how the Officer's evidence could have assisted the applicants, and the Board did not err in concluding that the evidence of the RCMP officer was not necessary to provide for a full and proper consideration of the claim. As a result, no breach of procedural fairness has been established.

V. Conclusion

[13] For these reasons, the application for judicial review is dismissed. I agree with the parties that the case is fact-specific, and does not raise a question for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed.

“Anne L. Mactavish”

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Judge

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

**DOCKET:** IMM-771-14

**STYLE OF CAUSE:** LIU, CHENGGUI, LIU, LULU, LIU, ZHUANGZHUANG  
v THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** APRIL 13, 2015

**JUDGMENT AND REASONS:** MACTAVISH J.

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