

Federal Court



Cour fédérale

**Date: 20160211**

**Docket: IMM-1238-15**

**Citation: 2016 FC 184**

**Ottawa, Ontario, February 11, 2016**

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

**BETWEEN:**

**YIXIANG WANG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. INTRODUCTION**

[1] This is an application under s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] for judicial review of a decision of the Refugee Protection Division of the Immigration and Refugee Board of Canada [Board] dated February 16, 2015 [Decision], which rejected the Applicant's claim for refugee protection pursuant to ss 96 and 97(1) of the Act.

## II. BACKGROUND

[2] The Applicant is a citizen of the People's Republic of China. He made his refugee claim based on his religion and membership in the illegal Eastern Lightning Church [Church], claiming that he is wanted by Chinese authorities who are aware of his membership.

[3] The Applicant says that he joined the Church upon the recommendation of a friend, who advised that it would help him cope with the sleep difficulties and depression that he had begun to experience following the 2011 tsunami in Japan, where the Applicant had been living at the time.

[4] Upon finding out that the Church was illegal, the Applicant says that he initially declined and did not follow his friend's recommendation. However, after medication, massages and vacation all failed to help him, he decided to adopt the religion. He began to pray with his friend in July 2013 and started to attend a house-church in August 2013.

[5] In November 2013, the Applicant says that the Chinese Public Security Bureau [PSB] raided the Applicant's church service. He went into hiding and a PSB summons was issued at his home. With the help of an agent, the Applicant fled by obtaining an American passport (that he did not use) and then a Canadian passport which he used to enter Canada at Vancouver on February 22, 2014.

[6] The Applicant asked his father to mail some support documents to Canada, including his *hukou* (household register), his child's birth certificate, his marriage certificate, a hospital record and a summons.

[7] Canadian Border Services Agency [CBSA] seized the package of documents that had been addressed to the Applicant's home in Canada, and submitted that the documents it contained did not conform to the correct security features.

[8] The Applicant's hearing took place on October 28, 2014. The Minister of Citizenship and Immigration [Minister] intervened, alleging that the Applicant's documents were fraudulent.

### III. DECISION UNDER REVIEW

[9] The Board rejected the Applicant's claim, finding that the Applicant used fraudulent documents to bolster his submissions and that he lacked credibility.

#### A. *Credibility*

[10] The Board found that the Applicant is neither wanted by Chinese authorities for his Church membership, nor is he a genuine believer in, or member of, the Church in either China or Canada.

(1) Documents

[11] The Minister submitted that, based on the evidence, the Applicant had a blank medical booklet and false marriage and birth certificates sent to his address, with the intention of using the documents to support a false refugee claim. The Minister used a document from the Consulate General of the Federal Republic of Germany that describes information and security features of documents, including Chinese marriage certificates, to point out discrepancies and inconsistencies that suggested that the seized marriage certificate and birth certificate were likely fraudulent. The Minister further submitted that the blank medical document was likely sent so that the Applicant could fill it in with details that would bolster his refugee claim. Additionally, looking to the sender's receipt, it appeared that the recipient's name was written as Yin Zhan.

[12] The Board rejected as speculative the explanations of the Applicant – that the package had been intended for someone else, or that the blank medical record had been inserted by the Chinese authorities. The Board drew a negative inference from the Applicant's lack of effort to support this explanation with evidence or a letter from his father. Given the specificity and nature of the documents, the package was clearly intended to reach the Applicant for the purpose of bolstering his refugee claim. The Board stated that, in making its findings on the package, it had broad latitude to accept and consider the evidence in photocopied rather than original form.

[13] The Board noted that fraudulent documents are widely available in China and went on to conclude that when the evidence from the Applicant's testimony on his American and Canadian visa file is scrutinized, it is evident that he provided false information, likely supported by false

documents, in both applications. It is likely, then, that he had access to false or fraudulent documents.

[14] The Board did, however, disagree with one of the submissions of the Minister regarding the fraudulent documents. While it was concerned that a different ink was used for the name of the person on the birth certificate, the Board did not have evidence that a name cannot be added to a certificate after birth.

[15] The use of blank medical documents and a fraudulent marriage license to support the Applicant's claim seriously damaged his credibility, such that the Board could not rely on other documents provided or his testimony, particularly given that the very reason why the Applicant says he joined an illegal church was because of his medical issues. The Board reasoned that if the Applicant is willing to obtain false documents to support his claim, he is likely willing to provide false testimony and take part in Church activities to further support it. This issue was deemed egregious enough to dispose of the claim.

(2) Other credibility concerns

[16] The Board also drew a negative inference from the Applicant's lack of knowledge about what his purported religion says about what will happen to his wife and child and other good people at the end of the world. The Board found it likely that the Applicant does not know what the teachings of his Church might mean for his loved ones because he is not a genuine believer in its teachings. Further, the Board did not believe that the Applicant is wanted by Chinese authorities.

B. *Practice in Canada – sur place claim*

[17] The Board rejected an argument advanced by the Applicant that his involvement in his Church in Canada put him at risk. There was insufficient credible evidence to support that the Applicant is a genuine believer in the Church, or that his attendance and actions in Canada have come to the attention of Chinese authorities.

[18] As a result of the Applicant's attempt to submit fraudulent documents, the Applicant's claim was declared to be manifestly unfounded as per s 107.1 and was denied.

IV. ISSUE

[19] The Applicant raises only one issue in this proceeding: did the Board commit reviewable errors in its assessment of the genuineness of the Applicant's supporting documents?

V. STANDARD OF REVIEW

[20] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of review applicable to a particular question before the court is settled in a satisfactory manner by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless, or where the relevant precedents appear to be inconsistent with new developments in the common law principles of judicial review, must the reviewing court undertake a consideration of the four factors comprising the standard of review

analysis: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 48.

[21] The standard of review for the Board's assessment of evidence including concerns with credibility and genuineness of faith is reasonableness: *Gao v Canada (Citizenship and Immigration)*, 2015 FC 1139 at para 12; *Hou v Canada (Citizenship and Immigration)*, 2012 FC 993 at paras 8 and 15; *Lin v Canada (Citizenship and Immigration)*, 2009 FC 1276 at para 11.

[22] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with “the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.” See *Dunsmuir*, above, at para 47, and *Khosa v Canada (Citizenship and Immigration)*, 2009 SCC 12 at para 59. Put another way, the Court should intervene only if the Decision was unreasonable in the sense that it falls outside the “range of possible, acceptable outcomes which are defensible in respect of the facts and law.”

## VI. STATUTORY PROVISIONS

[23] The following provisions of the *Act* are applicable in these proceedings:

### **Convention Refugee**

96. A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality,

### **Définition de « réfugié »**

96. A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race,

membership in a particular social group or political opinion,

de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques:

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

(a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

(b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

#### **Person in need of protection**

#### **Personne à protéger**

97. (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

97. (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée:

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

(a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

(b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) the person is unable or, because of that risk, unwilling to avail themselves of the

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,



protection of that country,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

(2) A person in Canada who is a member of a class of persons prescribed by the regulations as being in need of protection is also a person in need of protection.

### **Credibility**

106. The Refugee Protection Division must take into account, with respect to the credibility of a claimant, whether the claimant possesses acceptable documentation establishing identity, and if not, whether they have provided a reasonable explanation for the lack of documentation or have taken reasonable steps to obtain the documentation.

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

(2) A également qualité de personne à protéger la personne qui se trouve au Canada et fait partie d'une catégorie de personnes auxquelles est reconnu par règlement le besoin de protection.

### **Crédibilité**

106. La Section de la protection des réfugiés prend en compte, s'agissant de crédibilité, le fait que, n'étant pas muni de papiers d'identité acceptables, le demandeur ne peut raisonnablement en justifier la raison et n'a pas pris les mesures voulues pour s'en procurer.

**Manifestly unfounded**

**Demande manifestement infondée**

107.1 If the Refugee Protection Division rejects a claim for refugee protection, it must state in its reasons for the decision that the claim is manifestly unfounded if it is of the opinion that the claim is clearly fraudulent.

107.1 La Section de la protection des réfugiés fait état dans sa décision du fait que la demande est manifestement infondée si elle estime que celle-ci est clairement frauduleuse.

**Proceedings**

**Fonctionnement**

170. The Refugee Protection Division, in any proceeding before it,

170. Dans toute affaire dont elle est saisie, la Section de la protection des réfugiés :

[...]

[...]

(g) is not bound by any legal or technical rules of evidence;

(g) n'est pas liée par les règles légales ou techniques de présentation de la preuve;

(h) may receive and base a decision on evidence that is adduced in the proceedings and considered credible or trustworthy in the circumstances; and

(h) peut recevoir les éléments qu'elle juge crédibles ou dignes de foi en l'occurrence et fonder sur eux sa décision;

[...]

[...]

[24] The following provisions of the *Refugee Protection Division Rules*, SOR/2012-256 [*RPD Rules*] are applicable in these proceedings:

**Original documents**

**Documents originaux**

42. (1) A party who has provided a copy of a document to the Division must provide the original document to the Division

42. (1) La partie transmet à la Section l'original de tout document dont elle lui a transmis copie:

(a) without delay, on the written request of the Division;  
or

(a) sans délai, sur demande écrite de la Section;

(b) if the Division does not make a request, no later than at the beginning of the proceeding at which the document will be used.

(b) sinon, au plus tard au début de la procédure au cours de laquelle le document sera utilisé.

## VII. ARGUMENTS

### A. *Applicant*

[25] The Applicant submits that the Board committed reviewable errors in its assessment of his evidence by: (1) failing to apply its own rules about the production of original documents; and (2) making findings without regard to available evidence and all of the documents seized by CBSA.

#### (1) Original documents were required

[26] That Applicant says that it was unreasonable of the Board to reach conclusions on the authenticity of documents without examining readily available, original versions. The *RPD Rules* should apply equally to the Minister on intervention as they do to claimants. Where the Minister wishes to impugn a document's authenticity, original copies of the document should be disclosed pursuant to Rule 42. The Court has upheld, on various occasions, the Board's refusal to accept copies of documents, especially where there is no reasonable explanation for the absence of originals: *Naeem v Canada (Citizenship and Immigration)*, 2014 FC 1134 at paras 10-12; *Flores v Canada (Citizenship and Immigration)*, 2014 FC 1138 at para 7. Not only did the Applicant in

the present case formally object to the use of photocopies, it is not clear whether even the Minister's Representative himself ever benefitted from reviewing the seized documents in their original form.

[27] The Applicant submits that the Board may rely on its specialized knowledge to assess the genuineness of documents: *Merja v Canada (Citizenship and Immigration)*, 2005 FC 73; *Su v Canada (Citizenship and Immigration)*, 2012 FC 743 at para 15. However, the Board has a duty to examine original identity documents, especially where they are readily available, prior to concluding that they are fraudulent. Modern security features of identity documents often contain anti-photocopying characteristics, seals and features that react to ultraviolet light. The Board should not have made determinative findings on authenticity without the benefit of reviewing the original documents.

(2) Findings were made without all the available evidence

[28] The Applicant further argues that the Board also erred by making determinations about the documents without first reviewing all of the evidence available. The Applicant notes that his *hukou* and summons were also supposed to be contained in the seized package. The Board did not respond to this specific concern, but stated that the credibility of the Applicant had been so damaged that the Board could not rely on other documents provided. Therefore it appears that, based on the photocopies examined by the Board, even if disclosure of all other seized documents had taken place, it would have made no difference.

[29] This is particularly troublesome as the other undisclosed seized documents could have corroborated the authenticity of those that were impugned. For instance, the *hukou* would have confirmed that the Applicant is married to the person he claims to be married to, and this could have influenced the Board's decision regarding the marriage certificate's authenticity. The summons could have corroborated that the PSB had sought out the Applicant for arrest for his illegal religious activities.

[30] The Applicant says that these documents are probative and it was unreasonable and a reviewable error for the Board to not request disclosure of the full contents of the seized package.

B. *Respondent*

(1) The evidence was not credible

[31] The Respondent submits that the Board made a reasonable finding that the claim was not credible based on the Applicant's submission of fraudulent documents, his lack of knowledge about central aspects of his purported religion, and other issues.

[32] Determining an applicant's credibility is at the heart of the Board's jurisdiction. The Board is entitled to make reasonable findings based on implausibilities, common sense and rationality. In order for a credibility finding to be found unreasonable, it must be made in a perverse or capricious manner, without regard for the evidence: *Aquebor v Canada (Environment and Immigration)* (1993), 160 NR 315 (FCA) at para 4; *Singh v Canada (Citizenship and*

*Immigration*), 2002 FCT 1272 at paras 6-7; *Giron v Canada (Employment and Immigration)*, (1992) 143 NR 238 (FCA). It was not unreasonable for the Board to conclude that the Applicant had severely damaged his credibility, which reflected poorly on other findings: *Osayande v Canada (Citizenship and Immigration)*, 2002 FCT 368 at paras 18-21.

[33] A negative inference was also drawn from the Applicant's lack of knowledge about central aspects of his purported religion. The Board's resulting finding, that the Applicant lacked credibility generally, was enough to dispose of the claim. The Applicant had the onus to demonstrate that there was credible evidence in the record capable of supporting a positive disposition of the claim, and he did not do so: *Sellan v Canada (Citizenship and Immigration)*, 2008 FCA 381 at para 3.

(2) The Board did not err in admitting documents tendered by the Minister

[34] The Board did not err in admitting documents seized by CBSA, though their originals were not tendered. The quality and accuracy of the reproductions was approved and the Board's findings were chiefly focused on issues other than the documents' appearance. A negative inference was drawn from the blank medical record being sent, presumably so it could be completed to match the claim. Furthermore, it is well established that the Board has broad latitude over the admission of evidence, and the *RPD Rules* can be applied with some flexibility. Notably, under ss 170(g) and (h) of the *Act*, the Board may receive and base its decision on evidence that it considers trustworthy.

[35] As regards the photocopies of the documents, a lack of information would be replicated in a copy of a document. In terms of the marriage certificate, the Board looked to documentary evidence regarding the proper form of marriage certificates and noted the discrepancies present: the scanned photo in the certificate touches the bottom part of the ornamental security features; there is no seal on the back inside cover page; and the seal that was included is not a provincial one. The Board was also aware of the easy access to fraudulent documents in China. The Respondent says that in light of the foregoing, the Applicant has not shown how review of the original versions of the documents would have any bearing on the Board's conclusions.

[36] The Applicant's argument that CBSA seized other documents that could have corroborated his claim is unsupported and based on conjecture. There was no evidence before the Board to suggest that there were other documents in the seized package. Furthermore, the Board had a copy of the Applicant's *hukou* and considered the Applicant's claim that a summons had been left. The fraudulent documents damaged the Applicant's credibility in such a way that any other documents or testimony provided could not be relied on. It was therefore not unreasonable for the Board to not seek out all of the seized documents.

(3) The finding based on the Minister's documents was reasonable

[37] It was not disputed that the seized document package was sent to the Applicant's address. The Applicant's confirmation that his father had sent him a document package and the Board's analysis of the documents ultimately led the Board to conclude that two of the documents had been sent to the Applicant for the purpose of making a false claim.

[38] The Respondent submits that the Board made a reasonable finding based on the evidence submitted and drew a negative inference from the fraudulent documents as to the Applicant's credibility. Given that the Applicant's alleged religious conversion was based on medical issues, the blank medical record was of particular concern, and the Board reasonably concluded that it was sent to support a fraudulent refugee claim.

[39] The Applicant could not provide an acceptable explanation for the presence of the blank medical record. His arguments that the document had been intended for someone else, or had been inserted by the authorities to hurt his claim, were considered and rejected.

[40] The Respondent says that the Applicant has not raised a reviewable error with respect to the Board's conclusion on the fraudulent documents. The fact that fraudulent documents were sent to the Applicant without explanation was sufficiently egregious to reject his claim.

(4) Religious identity not genuine

[41] Based on its credibility concerns, the Board reasonably found that the Applicant was not a genuine member of the Eastern Lightning Church in China and that there was insufficient evidence to show that the Applicant's Church attendance in Canada placed him at risk. He could not, therefore, be found to be a refugee *sur place*. The Respondent notes that the Applicant did not truly claim to be a refugee *sur place*, as his claim was founded on his alleged Church attendance in China.



## VIII. ANALYSIS

[42] The Board finds that the Applicant has attempted to make a fraudulent refugee claim and makes a general non-credibility finding:

[22] Having found that the claimant attempted to use blank medical documents and a fraudulent marriage certificate to support his claim, the panel finds the claimant's credibility to be seriously damaged, such that it cannot rely on other documents provided or his testimony. As noted by the Minister, the very basis of why he states he joined the illegal religion is because of his medical issues, and by having attempted to furnish false evidence to support these medical issues, the claimant has shown that his statements about any documents related to what occurred in China cannot be relied upon.

[23] The panel finds that this issue is in itself sufficient to dispose of the claim, being serious enough to cause the panel to reject as not credible all of the claimant's statements and actions, including those taken in Canada, as part of his attempts to furnish a fraudulent refugee claim and not indicative of a genuine practice of his stated religion. In other words, if the claimant is willing to obtain false documents to support his claim, the panel finds he is likely willing to provide false testimony and attend church and take part in church activities to do the same.

[43] The Applicant says these findings are unreasonable for a variety of reasons. I will deal with each in turn.

### A. *Lack of Disclosure of Original Seized Documents*

[44] The Applicant says it was unreasonable for the Board to come to conclusions on the authenticity of documents without having the benefit of examining original documents that were readily available. He argues as follows:

[28] This is especially so, given that modern security features on identity documents often contain anti-photocopying features. This would distort the appearance of images that are photocopied, and could explain why the photocopy of the Applicant's marriage certificate was missing a printed seal and had a distorted photograph. In fact, the Minister's own evidence indicated that Chinese marriage certificates contain advanced security features, including a special reaction to UV light. In light of such advanced security features, it is all the more important that refugee decision-makers examine original identity documents before making important findings on their authenticity.

[emphasis in original]

[45] As the Respondent points out, the Board has broad latitude when it comes to the admission of evidence and here gave specific reasons why, in this case, the originals were not required. First of all, the Board rejected the Minister's contentions that the birth certificate was likely fraudulent and based its Decision upon the blank medical certificate and the false marriage certificate. So the question for the Court is whether the Board, reasonably speaking, should have looked at the originals of these documents and, assuming it was reasonable to look at copies, whether it was reasonable to reach a general non-credibility finding based upon these two documents.

[46] As the Respondent points out, ss 170(g) and (h) of the *Act* give the Board a broad latitude when it comes to the evidence. The Board is not bound by any legal and technical rules of evidence and may receive and base a decision on evidence that is adduced in the proceedings and is considered credible and trustworthy in the circumstances. The Applicant cites Rule 42 of the *RPD Rules* as mandating the Board to rely only upon original documents, but I don't believe Rule 42 can be read in this way – as it would clearly contradict s 170 of the *Act* – and the Applicant cites no authority to support such an extreme interpretation. In my view, then, the

Board was simply exercising its discretion under s 170 of the *Act* to consider copies that, given their source, the Board found to be reliable. I cannot say the Board acted unreasonably in this regard.

[47] As regards the medical certificate, the Board did not need to see the original in order to determine that the Applicant had been sent a blank form. The Applicant provided unacceptable reasons to try and explain the obvious inference that he had been sent a blank form so that he could complete it himself in a way that would confirm the medical problems that were the basis for his turning to the Church. There was nothing unreasonable about the Board relying upon a copy provided by the Minister to ascertain that the medical form was blank. The original would not have changed the Board's conclusions and inferences.

[48] As regards the marriage certificate, the Board considered the Applicant's arguments against relying upon a copy, but concluded that the reproductions were of a sufficiently high quality that they made it possible "by plain eye" to examine and assess the discrepancies noted by the Minister. I have nothing before me to suggest that this conclusion was not accurate or reasonable.

[49] However, the Applicant makes the point, quoted above, about anti-copying features that could have distorted the copied version of the marriage certificate. Nonetheless, these suggestions do not explain the inconsistencies that the Minister brought to the attention of the Board in the Minister's submissions:

[14] The Marriage Certificate was allegedly issued to Xiao Ju CAO on January 23, 2007 with the claimant's name Yi Xiang

WANG listed as her spouse. (Exhibit M-1: Marriage Certificate – Original, p. 3; Exhibit M-2; Marriage Certificate – English Translation, p.5)

[15] It is important to note that the Chinese Marriage Certificate has been uniformed, printed and distributed centrally by Chinese government since January 01, 2004. Therefore, the security features outlined here are applicable to the claimant's Marriage Certificate, issued in 2007. (Exhibit M-3: Chinese Marriage Certificate Sample and Security Features, p.6)

[16] When comparing the claimant's Marriage Certificate with a genuine sample shared by the CBSA National Document Centre, the Minister notes that the claimant's marriage certificate is inconsistent with the security features associated with a genuine document. (Exhibit M-3: Chinese Marriage Certificate Sample and Security Features)

[17] According to the intelligence shared by CBSA, the Chinese Marriage Certificate issued after January 01, 2004 should have photographs secured with an embossing seal. However, the Minister observes that instead of an actual photograph, the claimant's Marriage Certificate only contains a scanned copy of a photo. Even more suspiciously, this scanned photo does not appear to have a full seal but a partial seal not commensurate with the quality of an embossing seal. (Exhibit M-1: Marriage Certificate – Original, p.3; Exhibit M-3: Chinese Marriage Certificate Sample and Security Features, p.12)

[18] What's more, the upper line of the scanned photo appears to touch the bottom part of the ornamental security features, a quality not typically resembled in a genuine document. (Exhibit M-1: Marriage Certificate – Original, p.3)

[19] The Minister further observes the unusual ink spillage to the left of the scanned photograph. The spillage pattern appears to be uneven with a notable quantity appearing on top but tapering off towards the bottom. Again, these observations are not consistent with security features associated with a genuine document. (Exhibit M-1: Marriage Certificate – Original, p.3)

[20] The standard security features shared by CBSA indicate that a printed seal from the Provincial Department of Civil Affairs should appear on the back inside cover page of the marriage certificate. However, there is no seal appearing on the back inside cover page of the claimant's marriage certificate at all. In fact, the official seal on Page 1 of the document is not a provincial seal, but

a marriage registration seal for the Civil Affairs Bureau of Gucheng County. (Exhibit M-1: Marriage Certificate – Original, p.3; Exhibit M-2: Marriage Certificate – English Translation; Exhibit M-3: Chinese Marriage Certificate Sample and security Features, p.13)

[21] The Minister does not find it plausible that the claimant’s Marriage Certificate presents so many discrepancies in comparison with a genuine sample document. These discrepancies raise serious doubt over the genuineness of the document and the veracity of the information.

[50] The problems were “scanned copy of a photo,” “lack of a full seal... but a partial seal not commensurate with the quality of an embossing seal,” “upper line of scanned photo appears to touch bottom part of the ornamental features,” “the unusual ink spillage,” “no seal on the back inside cover,” “not a provincial seal, but a marriage registration seal for the Civil Affairs Bureau of Gucheng County.” These discrepancies cannot all be explained by “anti-photocopying features.”

[51] My conclusion, then, is that it was not contrary to any legal rule, and it was not unreasonable on the facts of this case, for the Board to rely upon copies of the blank medical form and the marriage certificate.

B. *Lack of Disclosure of All Seized Documents*

[52] The Applicant argues further that the Board erred by making determinations about “some” of the Applicant’s seized documents without the benefit of reviewing *all* of the documents seized by CBSA. He says this means that the Board made its finding without regard to all of the available evidence. The Applicant says that the other seized documents could have

corroborated the authenticity of the impugned documents and substantiated the central elements of his claim.

[53] The central document was the blank medical form. It is central because the Applicant's narrative is that he turned to the Church to assist with his medical problems that doctors and medication had not been able to resolve. Unless he can objectively establish what these medical problems were and the efforts he made to alleviate them before he turned to the Church, the Applicant cannot establish the central pillar of his claim. Nor can he offset the obvious inference that his father sent him a blank medical form so that he could complete it in a way that would support the central tenet of his claim.

[54] The Applicant has not explained how any other document in the seized package could have dispelled this central credibility issue. He says that the summons would have confirmed his position that he is being sought by the PSB. However, the record shows that the Board had a copy of the *hukou* and the marriage certificate. The record also shows that the Board was fully aware that a summons had been left at the Applicant's house in China. However, the Board concluded that it did not need to see the summons or the originals of the other documents because, given its findings regarding the fraudulent blank medical certificate and the fraudulent marriage certificate, the Applicant's credibility was so seriously damaged that any other documentation he might produce could not be relied upon:

[22] Having found that the claimant attempted to use blank medical documents and a fraudulent marriage certificate to support his claim, the panel finds the claimant's credibility to be seriously damaged, such that it cannot rely on other documents provided or his testimony. As noted by the Minister, the very basis of why he states he joined the illegal religion is because of his medical issues,

and by having attempted to furnish false evidence to support these medical issues, the claimant has shown that his statements about and documents related to what occurred in China cannot be relied upon.

[23] The panel finds that this issue is in itself sufficient to dispose of the claim, being serious enough to cause the panel to reject as not credible all of the claimant's statements and actions, including those taken in Canada, as part of his attempts to furnish a fraudulent refugee claim and not indicative of a genuine practice of his stated religion. In other words, if the claimant is willing to obtain false documents to support his claim, the panel finds he is likely willing to provide false testimony and attend church and take part in church activities to do the same.

[55] In my view, it was reasonably open to the Board to decide that other documentation would have made no difference. In coming to this conclusion, it has to be borne in mind that the Board was fully aware that fraudulent documents are widely available in China and that the Applicant knew how to acquire fraudulent documents, and had in fact done so:

[20] The panel further notes that the documentary evidence suggests that fraudulent documents are widely available in China, and the evidence from the claimant's testimony regarding his United States visa and in his Canadian visa file is that he in fact provided false information, likely supported by false documents, in both of those applications and as such has access to such false or fraudulent documents.

[footnotes omitted]

[56] In the context of this case, I cannot say it was unreasonable for the Board not to request the full package of original documents from the Minister, or for the Board to base its general negative credibility finding on the blank medical form (and the Applicant's failure to provide a plausible explanation) and the fraudulent marriage certificate. Given the centrality of the blank

medical form to the Applicant's claim, the finding that it was fraudulent meant that the Applicant could not redeem himself with additional documentation.

[57] As Justice de Montigny pointed out in *Seyoboka v Canada (Citizenship and Immigration)*, 2009 FC 104 at para 34 [*Seyoboka*]:

...[T]he level of disclosure owed to an applicant cannot be decided by a simple invocation of the distinction between criminal and administrative proceedings, and that the consequences of an adverse finding on the applicant must be taken into consideration.

[58] The Applicant relies upon *Seyoboka*, above, in the present case. However, this case is not really about a lack of disclosure to an applicant. The Applicant was fully aware of what the seized package contained and gave evidence on point, including evidence about the summons. The Applicant's principal complaint is that the Board should have looked at the original version of the summons to determine whether it was genuine, so that a genuine summons could have supported his case. The Board found that the Minister had not demonstrated that the birth certificate was fraudulent, but this did not impact the general non-credibility finding. Nevertheless, the Board found that the Applicant's credibility was so seriously damaged by the blank medical documents and fraudulent marriage certificate that it was reasonable to conclude that the Applicant had attempted to furnish a fraudulent refugee claim. See *Waraich v Canada (Citizenship and Immigration)*, 2010 FC 1257 at paras 42-43; *Oukacine v Canada (Citizenship and Immigration)*, 2006 FC 1376 at paras 32 and 35. And the Board did this knowing full well that the Applicant had a summons to produce. I think the implication is clear that, given the evidence reviewed, including the ready availability of fraudulent documents in China and the Applicant's ability and willingness to acquire and use them, as well as the general finding of a



fraudulent intent, the Board was not prepared to accept the summons as reliable. I cannot say this was unreasonable on the facts of this case. See *Dzey v Canada (Citizenship and Immigration)*, 2004 FC 167 at paras 19, 22 and 48.

[59] The parties agree there is no question for certification and the Court concurs.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that**

1. The application is dismissed.
2. There is no question for certification

“James Russell”

---

Judge

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

**DOCKET:** IMM-1238-15

**STYLE OF CAUSE:** YIXIANG WANG v MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 5, 2015

**JUDGMENT AND REASONS:** RUSSELL J.

**DATED:** FEBRUARY 11, 2016

**APPEARANCES:**

Matthew Oh

FOR THE APPLICANT

Amy King

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Lewis and Associates  
Toronto, Ontario

FOR THE APPLICANT

William F. Pentney  
Deputy Attorney General of  
Canada  
Toronto, Ontario

FOR THE RESPONDENT