

Federal Court



Cour fédérale

Date: 20161103

Docket: IMM-2216-16

Citation: 2016 FC 1225

[ENGLISH TRANSLATION]

Ottawa, Ontario, November 3, 2016

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

OLIVIER KANA ZEBAZE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant, Olivier Kana Zebaze, is applying for judicial review of a decision rendered by the Refugee Protection Division [RPD] on February 25, 2016, finding that the applicant is neither a refugee nor a person in need of protection. The application for judicial review is brought under section 72 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [IRPA].

[2] The applicant claims that the decision made in his case is unreasonable, insisting particularly on the fact that the RPD gave no probative value to one of the pieces of evidence he had submitted. For the reasons that follow, the application for judicial review cannot succeed.

[3] The applicant is currently 32 years old. He is a citizen of Cameroon but has not lived there since 2010. While he was living in Romania to pursue studies, he became the father of two children (one of whom is now unfortunately deceased). Their mother is a Canadian citizen he met in Romania. She currently resides in Quebec.

[4] When he was a young boy of six or seven, the applicant went to live with his uncle in the northern region of Cameroon. It seems that he lived with his uncle from time to time until partway through his high school studies. His uncle worked as a senior police officer. Apparently, one of the applicant's cousins died mysteriously at an early age in 2001 or 2002. In March 2015, one of the applicant's cousins who was living with that uncle was found dead, «suffocated» in her car, near the residence.

[5] As a result of these two clearly tragic incidents and his connections with that police officer uncle, the applicant is seeking the status of refugee or person in need of protection under sections 96 and 97 of the IRPA. According to the applicant, he has reason to be afraid of drug traffickers and members of the Boko Haram terrorist group because of his connection to his uncle. His application was denied.

[6] Essentially, the RPD concluded that there was not a serious possibility that he would be persecuted if he were to return to Cameroon (decision, paragraph 18). The relationship between the applicant and his police officer uncle is not sufficient to establish a serious possibility of persecution. After all, the applicant has not lived with his uncle since 2010, and it does not appear that he spent all his time with his uncle before that (decision, paragraph 19).

[7] The applicant claims that the RPD did not find that he lacks credibility. The Court also finds that that is not the issue. However, what was noted by the RPD was the implausible nature of his claim. There is no doubt about the death of his two cousins. No one is questioning the benefactor uncle's career. However, what the RPD determined is that the applicant did not establish a strong connection between these elements and the claim that he would be a target of drug traffickers or Boko Haram. The tragic deaths are unexplained, and an attempt to link them to drug traffickers and Boko Haram is speculation.

[8] No evidence has been submitted to establish any connection between the deaths of the cousin in 2001 or 2002 and the cousin in 2015 that might have been caused by drug traffickers or the Boko Haram group. To the RPD, that is speculation at best. In both cases, the RPD agreed that [TRANSLATION] «the cause of death was unknown, and the identity of the potential perpetrator(s) is also unknown» (decision, paragraph 18).

[9] The applicant's claim that he could be a target because he lived with his uncle was not accepted either. The applicant, currently age 32, has not lived with his uncle since 2010, and he seems to have been out of the country during that entire period.

[10] The applicant tried to submit a document that was apparently written on January 17, 2016, by the uncle in question. At the hearing, the applicant's counsel argued that the RPD had no valid reason not to consider that corroborating evidence. With all due respect, it is unclear what purpose that document could serve. All the document states is [TRANSLATION] «[a]cknowledge having experienced all the tragic events as stated in the document written by my nephew KANA ZEBAZE Olivier....» It is reasonable to assume that the only tragic events he could be referring to involving the applicant would be the deaths of his two cousins. Nowhere is there any indication of a connection between those deaths and drug traffickers or Boko Haram, much less that the attacks were a form of intimidation or revenge.

[11] In my opinion, the RPD was right to give very little probative value to that document. Not only does it fail to describe the events in question, but if those events are the deaths of his cousins, they prove little. It is worthwhile to note that this was the exact criticism the RPD gave of the document. This document does not [TRANSLATED] «corroborate in itself a connection between the job of the refugee claimant's uncle and the death of his cousins being caused by drug traffickers or the Boko Haram group» (decision, paragraph 17). The statement has no probative value because it does not prove this connection, simply corroborating the tragic incidents. Thus, the only thing that is corroborated is the death of the cousins. There is no evidence of a cause and effect relationship in this case. There are simply vague claims with no supporting evidence. The general assertions do not favour the applicant. The applicant's testimony of his cousins' deaths is not disputed. When he speculates, assumes and presumes, that in no way establishes a connection between the deaths and attacks to seek revenge or to intimidate. The document from the applicant's uncle provided no help in that regard.

[12] In fact, the Basis of Claim Form submitted on December 4, 2015, shows the applicant's statement regarding the question about his attempt to request protection from the authorities in his home country: [TRANSLATION] «I had the choice of submitting the refugee claim in Romania and Canada, and I chose Canada in order to be with my family». The same topic is found in the narrative prepared by the applicant. This indicates that he applied for a visa from Romania, where he was residing, and that the application was denied. In the second-to-last paragraph of his statement, he writes:

[TRANSLATION] I could return to Cameroon and then have my long-suffering son and his mother come live with me in Cameroon. What about the one who was buried in Canada? Was the solution to bring them to live in a country filled with terrorists and traffickers? I therefore decided to come to Canada passing through the United States, so I got my visa to take my trip by bus to Canada, where I applied for refugee protection at the border in order to be safe and take care of my son, who is not dead, and his mother, and play my role as father that had been taken from me.
[Sic]

[13] It is easy to see why the RPD rejected his refugee claim. Not only is refugee status in no way established, but it also seems that the true motivation, which is commendable, is to come to Canada to be with his son and his son's mother. While this raises some sympathy, these are not relevant considerations for obtaining the status of refugee or person in need of protection.

[14] It is not disputed that the standard of review in this case is reasonableness (*Warsame v. Canada (Citizenship and Immigration)*, 2016 FC 596). As everyone is aware, the burden is on the applicant to demonstrate on the balance of probabilities that the decision is outside the bounds of reasonableness. However, the decision is justified, transparent and intelligible, and falls within a range of possible, acceptable outcomes which are defensible in respect of the facts

and law. What is sorely lacking is a plausible connection between the tragic deaths and the alleged fear, when even the police officer uncle does not claim one. As a result, the application for judicial review is dismissed. No question of general importance was raised, and none are presented to the Court.

JUDGMENT

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

«Yvan Roy»

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2216-16

STYLE OF CAUSE: OLIVIER KANA ZEBAZE v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: OCTOBER 26, 2016

JUDGEMENT AND REASONS: ROY J.

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APPEARANCES:

Claudette Menghile

FOR THE APPLICANT

Steve Bell

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Claudette Menghile
Barrister & Solicitor
Montréal, Quebec

FOR THE APPLICANT

William F. Pentney
Deputy Attorney General of Canada
Montréal, Quebec

FOR THE RESPONDENT