

Federal Court



Cour fédérale

**Date: 20180215**

**Docket: IMM-3571-17**

**Citation: 2018 FC 182**

**Ottawa, Ontario, February 15, 2018**

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

**BETWEEN:**

**JIE ZHOU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The applicant, Mr. Jie Zhou, is a citizen of the People's Republic of China. He came to Canada in April 2015 and claimed refugee status in October 2016. He says that he joined Falun Gong in 2014, that he escaped a raid of the Public Security Bureau [PSB] on his group of Falun Gong practitioners and that he was told that PSB agents came to his home to arrest him.

[2] On January 13, 2017, the Refugee Protection Division [RPD] of the Immigration and Refugee Board [IRB] denied his claim. The RPD found many contradictions and inconsistencies in Mr. Zhou's testimony. In particular, the RPD found that Mr. Zhou would not have been able to exit China with his passport, as he testified, because he would have been caught by the "Golden shield" security system if he had really been wanted by the PSB. The RPD also found that a summons allegedly served on Mr. Zhou by the PSB was not a genuine document.

[3] Mr. Zhou then appealed to the Refugee Appeal Division [RAD] of the IRB. On August 2, 2017, the RAD dismissed his appeal. After a detailed review of the RPD's decision, the evidence and Mr. Zhou's arguments, the RAD reached essentially the same conclusions as the RPD.

[4] Mr. Zhou then sought and obtained leave to bring an application for judicial review of the RAD's decision before the Federal Court.

[5] This Court reviews decisions of the RAD on a standard of reasonableness (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93, [2016] 4 FCR 157, at paras 30-35). My role is to ensure that the RAD's decision is based on a defensible interpretation of the relevant legal principles and a reasonable assessment of the evidence.

[6] In his memorandum of argument, counsel for Mr. Zhou raised three issues: (a) details surrounding Mr. Zhou's introduction to Falun Gong; (b) details concerning the PSB raid; (c) the genuineness of the summons. In oral argument, he raised a number of other issues and insisted heavily on errors made by the RPD that were identified by the RAD. Two comments are in order

in this regard. First, the role of the Federal Court is not to review the decision of the RPD, but that of the RAD. If the RAD identifies certain errors in the RPD's decision, but is able to reach the same outcome through a different route, then the errors in the RPD's decision are irrelevant to the application for judicial review before the Federal Court. Second, the memorandum of argument plays a crucial role in ensuring the fairness and efficiency of the Court's process. If an applicant makes arguments that were not announced in the memorandum, then it is difficult for the respondent to provide meaningful submissions and for the Court to study the case. The Court may decline to hear arguments that were not included in the memorandum (*Huong v Canada (Minister of Citizenship and Immigration)*, 2004 FC 73 at para 10; *Qureshi v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16005 (FC) at para 10; *Pelletier v Canada (Attorney General)*, 2005 FC 1545 at para 91).

[7] Be that as it may, I listened to all of Mr. Zhou's arguments and I am not persuaded that the RAD made any reviewable errors. Mr. Zhou essentially reiterates arguments made before the RAD and invites this Court to take a different view. As I mentioned above, this is not the role of this Court sitting in judicial review. Mr. Zhou's arguments relate to findings of fact which were reasonably based on the evidence before the RAD.

[8] Mr. Zhou insists particularly on the RAD's finding regarding the PSB summons. The RAD based its findings on objective country information to the effect that the form of summonses has not changed since 2003 and is meant to apply uniformly across China. However, the summons submitted by Mr. Zhou appears to deviate from that standard form. Therefore, the RAD found that it was not a genuine document. Mr. Zhou argues that the Decision is

unreasonable in this regard, because it fails to take into account other country information to the effect that police officers in China do not uniformly comply with applicable procedures.

[9] The RPD and the RAD have considerable expertise in the assessment of evidence. They are in a better position than this Court to determine whether a document allegedly issued by a foreign authority is genuine. I note that their finding is based not only on the discrepancy between the document allegedly issued to Mr. Zhou and the model found in the objective country information, but also on the fact that Mr. Zhou had already been found to have made a false claim of being a Falun Gong practitioner.

[10] The main ground of the RAD's decision is that Mr. Zhou would have been unable to leave China had he been wanted by the PSB. There is nothing in Mr. Zhou's memorandum of argument in this regard. In oral argument, counsel for Mr. Zhou noted that Mr. Zhou traveled from mainland China to Hong Kong with an exit permit, not a passport. This issue was discussed at length by the RAD, which found that Mr. Zhou would not have been issued an exit permit either (paras 31-35). I find the RAD's conclusions reasonable in this regard.

[11] On the whole, Mr. Zhou has not persuaded me that the RAD's treatment of the evidence is unreasonable.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed;
2. No question is certified.

“Sébastien Grammond”

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Judge

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

**DOCKET:** IMM-3571-17

**STYLE OF CAUSE:** JIE ZHOU v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

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**APPEARANCES:**

Peter Lulic FOR THE APPLICANT

Neeta Logsetty FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Peter Lulic FOR THE APPLICANT  
Barrister and Solicitor  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Ottawa, Ontario