

Federal Court



Cour fédérale

**Date: 20190930**

**Docket: IMM-706-19**

**Citation: 2019 FC 1242**

**Ottawa, Ontario, September 30, 2019**

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

**BETWEEN:**

**MANAO HE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This application to set aside the December 24, 2018, decision of the Refugee Appeal Division [RAD] is dismissed, for the following reasons.

[2] The Applicant claims that she previously gave birth to a daughter in China and that after becoming pregnant for a second time, was forced to undergo an abortion. After the abortion, China's Family Planning Office required her to undergo sterilization, but she fled to Canada

before the procedure could be performed. She says that because she has violated the sterilization notice, she faces sterilization and persecution if she returns to China.

[3] The RAD found the Applicant's claims to be fraudulent and determined that she does not face persecution in China. In particular, the RAD found that she never gave birth to a daughter in China, never had an abortion, and did not violate China's family planning policies. As a consequence of these findings, it found that the Applicant was not credible.

[4] The Applicant relied on a number of documents as proof that she gave birth to a daughter in China; (1) the child's birth certificate, (2) a Hukou listing the daughter, (3) a Family Planning Services Certificate, (4) a Civil Judgment of divorce from the daughter's father issued by the People's Court of Baiyun District of Guangzhou City, and (5) a Notice of Expulsion issued by the daughter's school.

[5] The RAD found that the birth certificate was fraudulent because its serial number did not conform to what was described in the Request to Information Request CHN106035.E [the RIR]. The RIR is entitled "China: Security features of birth certificates, including the meaning of the alphanumeric code (2000-December 2017)." It begins as follows:

The following text is a translated excerpt obtained from a [translation] "Notice Concerning Standardization of the Issuance of Medical Certificates of Birth," released on 4 May 2009 by the Fujian Provincial Ministry of Health, the Fujian Provincial Ministry of Public Security, and the Fujian Provincial Ministry of Justice:

Annex 6

ESSENTIALS FOR DISTINGUISHING MEDICAL  
CERTIFICATES OF BIRTH

...

[6] The Applicant submits that the RAD should not have relied on evidence about birth certificate format in Fujian province when her daughter was born in Guangdong province. Moreover, she submits that that the RAD fails to explain why it relied on that document.

[7] I agree with the Respondent that it appears from the RIR that birth certificate serial numbers are standardized throughout China. This is because the document states: “The Medical Certificate of Birth uses a standardized region-based number, with the regional units being provinces, autonomous regions and cities directly under the central government. For the province of Fujian, the certificate number starts with the regional number ‘35’.”

[8] There is nothing in the RIR that points to it being only applicable to birth certificates from Fujian province. In *Han v Canada (Citizenship and Immigration)*, 2019 FC 449 [*Han*], Justice Fothergill found that it was reasonable for the RAD to rely on the RIR in a similar situation to that here. In *Han* at para 28, Justice Fothergill notes:

The Applicants did not question the applicability of the RIR in the proceedings before the RAD. Before this Court, they assert that the RAD’s reliance on the RIR was unreasonable, because it describes birth certificates in the province of Fujian. The daughters were allegedly born in Shandong.

[9] In this case, the RAD informed the Applicant that it would be considering the RIR. Before the decision was rendered, the RAD asked the Applicant whether she had any submissions to make concerning the RIR; she made none.

[10] As in *Han*, the RAD here applied the RIR notwithstanding that the child was not born in Fujian province. As in *Han*, I find that was reasonable, particularly in light of the absence of any submissions from the Applicant.

[11] The RAD noted that the Hukou presented listed the daughter; however, it held that “on a balance of probabilities, that the alleged daughter’s name on the Hukou does not overcome the findings regarding the government issued fraudulent Birth Certificate.” The RAD gave the Hukou little weight as it had no security features and the documentation package states that fraudulent documents are widespread in China.

[12] The Applicant submits that it was unreasonable for the RAD to discount the document simply because fraudulent documents are widely available in China, and that it was also unreasonable to discount the document for a lack of security features without stating what those features were, citing my decision in *Chen v Canada (Minister of Citizenship and Immigration)*, 2015 FC 1133 [*Chen*] at para 11.

[13] In my view, the circumstances here are significantly different than in *Chen*. Here, unlike in *Chen*, there had been a prior finding that the principal document relied upon, the birth certificate, was fraudulent. It was not unreasonable for the RAD to hold that in such circumstances, and given the widespread availability of fraudulent documents, the Hukou could only overcome the previous finding if it had security features and it did not.

[14] The RAD found that the Applicant's Family Planning Services Certificate was fraudulent because it did not have the special seal of the issuing agency, which the documentation package indicates must be present. That package further states that absent the seal, the Certificate is invalid. The RAD's assessment of this document is reasonable and accords with the information before it.

[15] The Civil Judgment document was discounted by the RAD as it did not show any contact information for the court or the Applicant's lawyer. Moreover, the document, while it made reference to an appeal being available, failed to set out where an appeal could be taken. The RAD noted that this lack of information is an "unusual circumstance" given the nature of the document. While the RAD is not an expert in Chinese court documents, I am hard-pressed to find that its assessment was unreasonable, especially given its findings that the Applicant's other documents were fraudulent. In this context, and having raised concerns about the Civil Judgement, the RAD's finding that "this document is fraudulent and has been produced to support the Appellant's allegations of bearing a child" is reasonable.

[16] Lastly, the RAD discounted the Notice of Expulsion as it contained no contact information for the school in question; which the RAD held was to be expected "on a formal notice of this nature." As above, I am hard-pressed to find that its assessment was unreasonable, especially given that because the Applicant submitted other fraudulent documents.

[17] Accordingly, I find that the RAD's decision was reasonable and consistent with the evidence before it. This application must be dismissed.

[18] Neither party proposed a question to be certified.

**JUDGMENT IN IMM-706-19**

**THIS COURT'S JUDGMENT is that** this application is dismissed, and no question is certified.

"Russel W. Zinn"

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Judge

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

**DOCKET:** IMM-706-19

**STYLE OF CAUSE:** MANAO HE v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 12, 2019

**JUDGMENT AND REASONS:** ZINN J.

**DATED:** SEPTEMBER 30, 2019

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