

**Date: 20080404**

**Docket: IMM-3105-07**

**Citation: 2008 FC 443**

**Ottawa, Ontario, April 4, 2008**

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

**BETWEEN:**

**QING RU LIU  
(a.k.a. QINGRU LIU)**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Applicant, a Chinese citizen, was a student in Canada in 2005 when she made her refugee claim. That claim was denied because the Immigration and Refugee Board found the Applicant not to be credible and the claim not to have been made in good faith.

[2] The Applicant based this judicial review on the grounds that the credibility finding was unreasonable, that there were problems with the translation and that her re-availment in 2004 was unreasonably and unfairly interpreted against her.

[3] While the issues of fairness are to be determined on a standard of correctness, the issues of fact are to be determined on the basis of reasonableness in which some deference must be given to the trier of fact on the issue of credibility (*Dunsmuir v. New Brunswick*, 2008 SCC 9).

[4] With respect to the credibility finding on her conversion to Falun Gong, there is no basis for finding that the Board engaged in bullying the Applicant about her confusing answers. The finding of lack of credibility did not turn on whether she had two meetings two weeks apart with a friend who converted her or whether she had one such meeting. A review of the transcript shows confusion and inconsistency in answers quite apart from many alleged translation difficulties.

[5] As to the issue of translation itself, having reviewed the transcript, there was at best one difficulty with the translation of “major political movement” which the Applicant raised at the hearing. The translator was alerted to the issue, and the matter was clarified. There was no bullying of the Applicant in the course of clarification of her evidence on this issue. The other translation issue was of no consequence.

[6] On the matter of re-availment, it was evident that the Board found that the Applicant's return to China in 2004 was inconsistent with a claim of fear of persecution. The re-availment clearly factored in the Board's decision on credibility.

[7] The Applicant admitted that, as early as 1999, she was aware that Falun Gong was considered a cult by the Chinese government and subject to harassment by government agencies. By 2003 when she converted, she acknowledged that meetings were secret and that it was necessary to post look-outs.

[8] Therefore, the Board had a reasonable basis to conclude that a person knowing these facts and the atmosphere would not have returned from Canada in 2004 for a visit if she feared persecution. It was open to the Board to reject her explanation that she did not anticipate any problems from the authorities when she visited.

[9] Therefore, I find no basis for judicial intervention. The judicial review will be dismissed. There is no question for certification.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** this application for judicial review is dismissed.

“Michael L. Phelan”

---

Judge

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

**DOCKET:** IMM-3105-07

**STYLE OF CAUSE:** QING RU LIU (a.k.a. QINGRU LIU)

and

THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** April 2, 2008

**REASONS FOR JUDGMENT  
AND JUDGMENT:** Phelan J.

**DATED:** April 4, 2008

**APPEARANCES:**

Ms. Alesha Green FOR THE APPLICANT

Ms. Angela Marinos FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

GREEN, WILLARD LLP FOR THE APPLICANT  
Barristers & Solicitors  
Toronto, Ontario

MR. JOHN H. SIMS, Q.C. FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario