

Date: 20080407

Docket: IMM-3508-07

Citation: 2008 FC 410

Ottawa, Ontario, April 7, 2008

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

GRACE MASUKU

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. OVERVIEW

[1] The Immigration and Refugee Board (Board) denied the Applicant's claim for protection because she did not provide credible or trustworthy evidence to support her allegations of persecution or the well-foundedness of her fears.

[2] The Applicant does not challenge the credibility finding but instead challenged the Board's conclusion that she did not fit the risk profile of a perceived opposition party supporter in Zimbabwe or that of a failed refugee claimant. The Applicant's fundamental argument is that the Board ignored evidence.

II. FACTUAL BACKGROUND

[3] The Applicant is a citizen of Zimbabwe and was 20 years old at the time of her entry into Canada. Her two sisters successfully claimed refugee protection in Canada in 2001 and 2003 respectively. They had claimed that they and their mother were members of the Movement for Democratic Change (MDC), an opposition group, and as such were persecuted by the ZANU-PF party forces.

[4] The Applicant had stayed behind with her mother when the sisters came to Canada. She claimed that her mother had been taken away by ZANU-PF officials in 2004 and died under suspicious circumstances.

[5] As part of her refugee claim, the Applicant claimed fear of the ZANU-PF and others associated with that party. Although she was not a member of MDC, she asserted that because of her family's involvement with the MDC, she had been targeted by the ZANU-PF-backed militia.

III. ANALYSIS

[6] The critical difficulty with this judicial review is that the Board's credibility findings are unchallenged. Those findings go to both the issues of her subjective as well as the objective evidence as to the nexus between her claim and the evidence of risk.

[7] It is not evident that the Board ignored critical evidence. It considered the nexus between the government and ZANU-PF supported groups. The fact that it did not specifically mention each group, such as the War Veterans, does not establish that it ignored the evidence that there were several ZANU-PF supported groups.

[8] The Applicant failed to establish a credible connection between herself (or persons in her like situation) and these groups. The Board specifically drew attention to this nexus (or absence thereof) in its consideration of the situation of the Applicant's sisters.

[9] The Applicant failed to show a connection between herself and the risk to others fitting a specific profile because her evidence lacked the credibility to establish that she fit that profile.

[10] As to the allegation of risk because she is a returning failed refugee, it was a position that was not advanced before the Board. It would be unreasonable in this circumstance to impose a duty on the Board to ferret out both the facts and the arguments to support such an allegation of risk which the Applicant was not prepared to make.

IV. CONCLUSION

[11] Therefore, this 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-3508-07

STYLE OF CAUSE: GRACE MASUKU

and

THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 1, 2008

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

DATED: April 7, 2008

APPEARANCES:

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