

Federal Court



Cour fédérale

Date: 20140410

Docket: IMM-93-13

Citation: 2014 FC 347

Ottawa, Ontario, April 10, 2014

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

BASEBA TJIPETEKERA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

(Reasons given orally in Toronto on March 6, 2014)

[1] Baseba Tjipetekera [the Applicant] has applied for judicial review of a decision of the Immigration and Refugee Protection Board [the Board] of November 20, 2012 refusing her claim for refugee protection. The Board found that she lacked credibility and that there was no objective reason for her fear of persecution at the hands of her stepfather [the Decision].

[2] The Applicant, who is a thirty-one year old citizen of Namibia, claims that she was abused as a child and young adult by her stepfather and mother. They threatened to kill her if she did not agree to marry her stepbrother. She had her first child with her boyfriend in January of 1998, a second child with him in December 2003 and a third in April 2008. She testified that she lived with her stepfather until 2005 in a small town called Outjo. Thereafter, in the period from 2005 to 2008 the Applicant lived in Windhoek with her children and her boyfriend. However, her stepfather continued to contact her through her mother and insisted that she must marry her stepbrother. Her stepfather also called her boyfriend and told him that he would be killed if he did not leave her. Eventually, the boyfriend became discouraged and left the Applicant taking the children with him. In the period from 2008 to 2011, the Applicant was depressed and suicidal. She went to live with a friend and engaged in prostitution. In March of 2011, the Applicant arrived in Toronto and claimed refugee protection.

I. **Issue 1 - Credibility**

[3] The Board's first credibility finding was made on the basis that the Applicant named her stepbrother as the agent of persecution in her Port of Entry [POE] interview yet named her stepfather as the person she feared in her Personal Information Form [PIF] and in her oral testimony. In my view, it was not reasonable for the Board to rely on this inconsistency because the Applicant did not have the services of an interpreter at the port of entry and because, although she acknowledged that she spoke English, her answers to other questions at the POE suggest that she misunderstood the crucial question.

[4] Counsel for the Applicant suggested that, because interpretation was not provided at the POE, the Board's decision should automatically be set aside because there had been a violation of her Charter Rights. However, no authority was provided to support this proposition. Accordingly, I will consider the balance of the Board's credibility findings and the question is whether the Board's other findings are sufficient to allow me to conclude that the Board reasonably determined that she lacked credibility. It is of note that interpretation services were provided for the PIF and at the hearing.

[5] The Board concluded:

1. That the Applicant gave two different city names as the places where she lived with her stepfather until 2005.
2. That she contradicted herself saying that she lived with her stepfather until 2005 but also saying that she lived elsewhere without naming her stepfather from 2001 to 2011.
3. She said in oral testimony that she hid from her stepfather after 2005 but this was not mentioned in her PIF.
4. She testified that she feared going to the police to complain about her stepfather because of his "connections" yet this was not mentioned in her PIF.

[6] In my view, these contradictions form a reasonable basis for a negative credibility finding.

II. **Issue II – No Objective Basis**

[7] The second issue is whether the finding that there was no objective basis for her fear was reasonable. In my view, because no harm came to the Applicant at the hands of her stepfather from 2005 to 2011, this finding was also reasonable.

III. **Issue III – The Future**

[8] The Applicant raised a third issue suggesting that, even though the Applicant did not identify any future concerns other than her stepfather, the Board was obliged to speculate about other problems the Applicant might face on her return to Namibia and consider her need for protection in view of those possible problems. I have not accepted this submission.

IV. **Certification**

[9] Neither party suggested a question for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application is hereby dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-93-13

STYLE OF CAUSE: BASEBA TJIPETEKERA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 6, 2014

**REASONS FOR JUDGMENT
AND JUDGMENT:** THE HONOURABLE MADAM SIMPSON

DATED: APRIL 10, 2014

APPEARANCES:

Mr. Roy C. Amadi FOR THE APPLICANT

Ms. Neeta Logsetty FOR THE RESPONDENT

SOLICITORS OF RECORD:

Mr. Roy C. Amadi FOR THE APPLICANT
Toronto, Ontario

Mr. Myles J. Kirvan FOR THE RESPONDENT
Deputy Attorney General of
Canada
Ottawa, Ontario