

Federal Court



Cour fédérale

Date: 20240221

Docket: IMM-7450-22

Citation: 2024 FC 284

Ottawa, Ontario, February 21, 2024

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

YUJUAN SONG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Yujuan Song (the “Applicant”) seeks judicial review of the decision of an officer (the “Officer”), dismissing her pre-Removal Risk Assessment (“PRRA”) application. The Officer determined that the Applicant is neither a Convention refugee nor a person in need of protection, pursuant to section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant, a citizen of China, arrived in Canada on November 14, 2012. She applied for Convention refugee protection on November 30, 2012, alleging a fear of persecution from Chinese authorities arising from her participation in underground house churches practising the Christian religion.

[3] The Immigration and Refugee Board, Refugee Protection Division (the “RPD”) dismissed her claim on the grounds that the Applicant had failed to establish her religious profile and that she was sought by the Chinese authorities. An application for leave and judicial review was dismissed.

[4] The Applicant submitted her PRRA application on July 12, 2021. No oral hearing was held.

[5] In the decision, the Officer concluded that Chinese authorities were not seeking the Applicant and that she could freely practice her religion upon her return to China.

[6] The Applicant now argues that the lack of an oral hearing gives rise to a breach of procedural fairness. She submits that the Officer, in dismissing her PRRA application, made credibility findings about her religious practices. Referring to section 167 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, she argues that the Officer should have made a decision about an oral hearing on the basis of the factors identified in this provision.

[7] The Applicant otherwise argues that the Officer failed to consider the relevant country condition evidence, in particular the 2019 UK Home Office Report.

[8] The Minister of Citizenship and Immigration (the “Respondent”) contends that no breach of procedural fairness resulted from the lack of an oral hearing because the Officer made no credibility finding, but rather focused on the lack of new evidence from the Applicant to address the earlier findings made by the RPD.

[9] Further, the Respondent submits that the Officer reasonably considered the country condition evidence and reached a conclusion that stands up to the applicable standard of review.

[10] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339 (S.C.C.).

[11] The merits of the decision are reviewable on the standard of reasonableness, following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[12] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov, supra* at paragraph 99.

[13] I see no breach of procedural fairness resulting from the lack of an oral hearing. I agree with the Respondent's arguments on this issue.

[14] I see no reviewable error in the manner in which the Officer treated the country condition evidence.

[15] The Officer referred to the relevant reports and included excerpts in the decision. In my opinion, the Applicant's argument that different parts of those reports pointed to the opposite conclusion amounts to an invitation for this Court to reweigh the evidence.

[16] In the result, the application for judicial review will be dismissed. There is no question for certification.

JUDGMENT IN IMM-7450-22

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7450-22

STYLE OF CAUSE: YUJUAN SONG v. THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 23, 2023

REASONS AND JUDGMENT: HENEGHAN J.

DATED: FEBRUARY 21, 2024

APPEARANCES:

Elyse Korman FOR THE APPLICANT

Charles Jubenville FOR THE RESPONDENT

SOLICITORS OF RECORD:

Korman & Korman LLP FOR THE APPLICANT
Barristers and Solicitors
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario