

**Date: 20080402**

**Docket: IMM-3649-07**

**Citation: 2008 FC 421**

**Montréal, Quebec, the 2nd day of April 2008**

**Present: the Honourable Mr. Justice Maurice E. Lagacé**

**BETWEEN:**

**ERIC GOULONGANA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This application for judicial review results from a decision by the Immigration and Refugee Board, Refugee Protection Division (the panel), which had the effect of denying the applicant the status of a “Convention refugee” and a “person in need of protection” within the meaning of sections 96 and 97 of the *Immigration and Refugee Protection Act* (the Act) on the ground that it considered the fear of persecution alleged by the applicant so unlikely as to be unrealistic.

[2] After reviewing the record and considering the written and oral submissions of the parties, the Court concludes that it must uphold the decision which is the subject of the application for judicial review because in the context considered by the panel it must be regarded as reasonable.

### **Facts**

[3] The applicant, who is 29 years old and a citizen of Gabon, arrived in Canada in January 2002 for a period of study. Before coming to Canada he had studied in Britain (1997-2001), Belgium (1996-1997) and Italy (1992-1996). He returned to Gabon for the last time in August 2004.

[4] The applicant alleged his problems began in September 2005 during the Gabon presidential elections, when President Omar Bongo sent a delegation to Canada to seek the votes of students residing in Canada. The instructions of this delegation were allegedly to encourage students residing in Canada to vote for President Bongo and to prepare a list of those who refused to be placed on the electoral list and to support President Bongo.

[5] The applicant said he refused to be placed on the electoral list on principle and he alleged he received a number of anonymous threatening calls to force him to vote for this president.

[6] The applicant said he had already experienced a similar situation when he was studying in England, during the Gabon presidential elections of 1999.

[7] The applicant claimed that his refusal to be entered on the electoral list was seen as an affront to the Gabon government and that is why he feared reprisals, imprisonment and even death if he were to return to Gabon.

[8] At the same time, the applicant admitted that his parents were still residing in Gabon and had experienced no problems as a result of his refusal to be entered on the electoral list prepared in Canada by the Gabon consular services.

### **Impugned decision**

[9] The panel's rejection of the applicant's refugee status application was primarily based on the improbability of the applicant's allegations and his lack of credibility. In particular, the panel in a brief decision noted four points against the applicant:

(a) as the applicant had never taken part in political activities or worked for any political party, the panel could not believe his statement that his merely refusing to enter his name on the electoral list in 2005 marked him as an opponent of the Gabon government subject to persecution if he returned to his country of origin, in view of the fact that though not a perfect democracy Gabon did tolerate a multi-party system;

(b) the panel refused to attach any weight to the anonymous threats which the applicant claimed to have received from the Congolese consular services on the ground that the applicant, the son of a Gabon diplomat, held a diplomatic passport;

(c) the panel concluded on the basis of its specialized experience that when the Gabon government objected to an individual his family was harassed, which as the applicant himself admitted was not the case here;

(d) the improbability of the chronology of events allowed the panel to infer that loss of his scholarship from Gabon had upset the applicant and he was now inclined to impute to the Gabon government an intent to persecute him.

[10] Finally, the panel mentioned that it applied to the applicant's situation subsection 97(1) of the Act, which defines a "person in need of protection", but could not find any point of credibility that could justify a favourable decision under this provision.

### **Parties' arguments**

[11] The applicant first admitted that the standard of review applicable to panel decisions based on a lack of credibility in the refugee status applicant is that of unreasonableness as defined in *Dunsmuir v. New Brunswick*, 2008 SCC 9 (*Dunsmuir*).

[12] Despite this high standard of review, the applicant argued that this Court should allow his application for review for three reasons: (1) the panel's failure to consider all the evidence; (2) the decision was based on suppositions rather than on the evidence; (3) the decision contravened the rules of natural justice because sufficient reasons were not given for it.

[13] The applicant's first objection was based on the panel's failure to indicate on what evidence it relied in stating that Gabon was a multi-party state and consequently suggesting that an opposition to the government existed, rather than considering all the applicant's evidence which allegedly showed the contrary.

[14] The second reason is closely allied to the first. In the applicant's submission, rather than assessing the evidence submitted the panel simply concluded on the basis of supposition that a person holding a diplomatic passport is not usually threatened and that the applicant's family would ordinarily also be the subject of harassment if the Gabon authorities had really intended to cause him problems.

[15] The third reason also concerned a failure to consider all the evidence submitted, but placed greater emphasis on the panel's failure to adequately justify the reasons for its decision: in particular, the panel's failure to refer to the evidence on which its conclusions were based and to properly explain the reasons leading it to dismiss the applicant's evidence.

[16] The Minister properly noted that a conclusion that there is an absence of credibility may be based on improbabilities, irrationality and common sense (*Shahamati v. Canada (Minister of Employment and Immigration)*, [1994] F.C.J. No. 415 (C.A.) (QL)).

[17] Further, the Minister noted that the panel did not have to mention all the evidence considered in its reasons. The applicant's allegation that the decision did not take the evidence presented into account will not suffice to rebut the presumption that all the evidence was considered by the panel. The panel certainly did not have a duty to comment on all the documentary evidence submitted to it, especially if as in the case at bar it concluded that the applicant lacked credibility.

### **Issue**

[18] Was the panel's negative decision on the applicant's protection application unreasonable?

### **Analysis**

[19] The parties properly acknowledged that the standard of review applicable to decisions based on a lack of credibility in the refugee status claimant, as was the case here, is that of unreasonableness (*Dunsmuir, supra*).

[20] Contrary to what the applicant argued, the panel is not required to mention in its reasons all the evidence presented to it (*Florea v. Canada (Minister of Employment and Immigration)*, [1993] F.C.J. No. 598 (C.A.) (QL)). That objection is all the more pertinent where as in the case at bar the panel concluded that the applicant lacked credibility on the principal facts on which the claim was based (*Sheikh v. Canada (Minister of Employment and Immigration)*, [1990] 3 F.C. 238 (C.A.)).

[21] The Court must bear in mind the specialization and full powers of the panel to rule on the plausibility of testimony and credibility of an applicant in his explanations given to claim refugee

status (*Aguebor v. Canada (Minister of Employment and Immigration)*, [1993] F.C.J. No.732 (C.A.) (QL)).

[22] Based on its knowledge and its expertise, a specialized tribunal may draw inferences from the evidence without this necessarily meaning that such inferences result from bias, as the applicant suggested. The persons who preside over tribunals are not containers to be filled with any sort of story. They have a right to use their common sense in determining whether a story stands up, is true or is simply improbable.

[23] If an applicant submits documentary evidence to the decision-maker, he or she may expect that the latter will accept it in its entirety or only in part, or reject it outright. It is up to the panel to select and use the parts of the evidence which it considers to be most persuasive as a basis for its conclusions. If subsequently, as in the case at bar, the panel's choice does not suit the refugee status applicant because it harms his case, that is not a valid ground for judicial review of the decision.

[24] There is nothing to indicate here that the panel made a selective analysis of the very brief evidence heard. It was the panel's function to assess that evidence and no one but the panel could be in a better position to determine the applicant's credibility after hearing him. The mere fact that there was evidence contrary to the decision arrived at by the panel does not by itself justify this Court's intervention, especially when there was evidence to support the decision as is the case here (*Chowdhury v. Canada (Minister of Citizenship and Immigration)*, 2002 FCTD 363).

[25] For these reasons, the applicant's application must be dismissed. No question was submitted for certification and the Court considers that this case raises no question of general importance.



**JUDGMENT**

**FOR THESE REASONS, THE COURT:**

**DISMISSES the application for judicial review.**

“Maurice E. Lagacé”

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Deputy Judge

Certified true translation

Brian McCordick, Translator

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

**DOCKET:** IMM-3649-07

**STYLE OF CAUSE:** ERIC GOULONGANA v. THE MINISTER OF  
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**REASONS FOR JUDGMENT  
AND JUDGMENT BY:** THE HONOURABLE MR. JUSTICE LAGACÉ

**DATED:** April 2, 2008

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