

**Date: 20080423**

**Docket: IMM-3732-07**

**Citation: 2008 FC 534**

**Ottawa, Ontario, April 23, 2008**

**PRESENT: The Honourable Madam Justice Dawson**

**BETWEEN:**

**HONWOON WONG  
(a.k.a. HON WOON WONG)  
SOI CHAN NG  
KIN HONG WONG**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The applicants, Honwoon Wong (Mr. Wong), his wife, Soi Chan Ng, and their son, Kin Hong Wong, are citizens of Malaysia. They claim to have a well-founded fear of persecution on the basis of their Christian religious beliefs.

[2] Specifically, Mr. Wong and his wife grew up as members of the Islamic faith. They say that, in April of 2004, they were introduced to Christianity and began attending Christian church

services. Mr. Wong and his wife later converted to the Christian faith. As a result of their conversion to Christianity, Mr. Wong and his wife say that they began to be harassed and threatened by certain Muslim associates. Mr. Wong says that, as a result, he was forced to close his business.

[3] The Refugee Protection Division of the Immigration and Refugee Board (Board) rejected the applicants' claim to refugee protection. The Board found that Mr. Wong's evidence was not credible and that the applicants had failed to rebut the presumption of state protection. This application for judicial review of that decision is dismissed because the applicants have failed to establish that the Board committed any reviewable error in finding that state protection was available to the applicants in Malaysia.

[4] At the hearing of this application, counsel for the applicants focused on the Board's finding of state protection. I agree that the Board's conclusion on this point is determinative of the application. If there is adequate state protection for the applicants in Malaysia, any error contained in the Board's credibility findings would not be material.

[5] The Board's conclusion about the adequacy of state protection is, in my view, reviewable against the standard of reasonableness. See: *Hinzman v. Canada (Minister of Citizenship and Immigration)* (2007), 362 N.R. 1 at paragraph 38 (F.C.A.), and *Dunsmuir v. New Brunswick*, 2008 SCC 9 at paragraphs 57, 62, and 64.

[6] Reasonableness requires consideration of the existence of justification, transparency, and intelligibility in the decision-making process. It is also concerned with whether the decision falls

within a range of acceptable outcomes that are defensible in respect of the facts and law.

See: *Dunsmuir* at paragraph 47.

### **Application of the Standard of Review to the Finding of State Protection**

[7] Except in circumstances of complete breakdown of the state apparatus, there is a presumption that the state is capable of protecting its citizens. To displace that presumption, a claimant is required to provide clear and convincing confirmation of the state's inability or unwillingness to protect. See: *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689 at paragraph 50.

[8] The Board noted Mr. Wong's oral testimony that, on three occasions between June and September of 2004, he had sought police assistance. However, this information was not contained in Mr. Wong's Personal Information Form (PIF) and he could not explain this omission. On the basis of the importance of this information, the detailed instructions in the PIF with respect to specifying any steps taken to obtain protection and Mr. Wong's failure to explain the omission, the Board did not believe that Mr. Wong had sought protection from the police. In the words of the Board, the applicants were "not credible with respect to seek[ing] protection from the state in particular the police [...]."

[9] No other family member approached the authorities for help before the family left Malaysia.

[10] This failure, coupled with the applicants' failure to provide clear and convincing evidence of Malaysia's inability to provide protection, led the Board to find that the presumption of state protection had not been rebutted.

[11] The PIF instructs applicants that they are to "[p]rovide details of any steps you took to obtain protection from any authorities in your country and the result. If you did not attempt to obtain protection, explain why." In light of that clear instruction, the importance of this information to the applicants' claim, the fact the applicants were represented by counsel at the hearing and the failure of Mr. Wong to amend his PIF at the hearing, it was reasonable for the Board to disbelieve his evidence. Given the applicants' failure to establish that protection would not likely have been forthcoming, the Board did not then err by concluding that the applicants had not rebutted the presumption of state protection.

[12] From a fair reading of the Board's reasons, I am satisfied that, contrary to the submission of the applicants, the Board did not initially accept and then later ignore their evidence of seeking protection. Rather, the Board found the applicants' evidence on this point not to be credible.

[13] The applicants also argue that the Board placed them in a "no-win" situation. This is said to flow from the fact that, had Mr. Wong failed to testify about his three approaches to the police, the Board would have found that failure to be fatal. Yet, the Board rejected Mr. Wong's testimony simply because he had failed to put the information in his PIF.

[14] In my view, the difficulty the applicants faced flowed from their failure to mention in their respective PIFs that they had sought protection in Malaysia. This information was central to their claim and the Board cannot be faulted for concluding that Mr. Wong's testimony on this point was untruthful. The revelation occurred late in Mr. Wong's evidence, after he had testified that he did not believe he could go to the police if he was only threatened and that he did not know why he believed that the police would not deal with threats. As well, the Board found that Mr. Wong did not testify in a straightforward manner, hesitating with his evidence at times and being evasive at other times. My review of the transcript shows that the Board's characterization of Mr. Wong's evidence was accurate.

### **Conclusion**

[15] For these reasons, the application for judicial review will be dismissed. Counsel posed no question for certification, and I agree that no question arises on this record.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that:**

1. The application for judicial review is dismissed.

“Eleanor R. Dawson”

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Judge

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

**DOCKET:** IMM-3732-07

**STYLE OF CAUSE:** HONWOON WONG ET AL., Applicants

and

THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION, Respondent

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** APRIL 17, 2008

**REASONS FOR JUDGMENT  
AND JUDGMENT:** DAWSON, J.

**DATED:** APRIL 23, 2008

**APPEARANCES:**

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