

Federal Court



Cour fédérale

**Date: 20241024**

**Docket: IMM-7726-23**

**Citation: 2024 FC 1681**

**Ottawa, Ontario, October 24, 2024**

**PRESENT: The Honourable Madam Justice Turley**

**BETWEEN:**

**TAN CUONG HUYNH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS FOR JUDGMENT**

**I. Overview**

[1] The Applicant, a citizen of Vietnam, seeks judicial review of a decision by the Refugee Appeal Division [RAD] refusing his claim for asylum under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The Applicant claimed a fear of persecution by Vietnamese authorities because of his Roman Catholic faith. In particular, he alleged protesting with other parishioners against the Vietnamese government's treatment of

their priest, Father Long. The Applicant asserted that he was arrested following the protest, and then subsequently attacked by a group of thugs that he surmised were police targeting him for his dissidence.

[2] The RAD dismissed the Applicant's appeal for a lack of credibility. The panel found that the Applicant had failed to establish his religious identity and that he would be pursued by government authorities if he were to return to Vietnam.

[3] For the following reasons, I am dismissing the application. The RAD's reasons are intelligible, justified, and transparent. The Applicant has failed to establish any reviewable errors in the decision, and instead takes issue with the RAD's weighing of the evidence. It is not, however, the role of this Court, sitting in review, to reweigh and reassess the evidence: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 125 [*Vavilov*].

## **II. Analysis**

[4] The Applicant argues that the RAD: (i) engaged in a microscopic assessment of his religious identity; (ii) mischaracterized his actions with regard to the December 2019 protest; and (iii) misapprehended the objective evidence in finding that police-hired thugs did not beat him in February 2020.

[5] There is no dispute that the applicable standard of review is reasonableness for all three issues. A reasonable decision is "one that is based on an internally coherent and rational chain of

analysis and that is justified in relation to the facts and law that constrain the decision maker”: *Vavilov* at para 85; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8.

A. *The RAD did not engage in a microscopic analysis*

[6] I do not agree that the RAD was microscopic in considering whether the Applicant is a sincere, practising Roman Catholic. The RAD accepted that the Applicant was baptized in order to marry his wife, but held that he had failed to establish that he was a “sincere adherent to the Roman Catholic faith”: Refugee Appeal Division Reasons and Decision dated June 1, 2023 at para 12 [RAD Decision].

[7] In my view, this conclusion was reasonably open to the RAD based on the jurisprudence and the Applicant’s testimony. This Court has held that it is reasonable for a decision-maker to expect a claimant to have some rudimentary knowledge of religious tenets: *Zhang v Canada (Citizenship and Immigration)*, 2023 FC 1308 at paras 27–28; *Siline v Canada (Citizenship and Immigration)*, 2022 FC 490 at para 9; *Wu v Canada (Citizenship and Immigration)*, 2021 FC 591 at para 19; *Qi v Canada (Citizenship and Immigration)*, 2020 FC 400 at paras 18–19.

[8] Here, the Refugee Protection Division [RPD] and the Applicant’s own counsel questioned him about his religious knowledge over two days of hearings. Notably, the Applicant did not recognize the names Judas or Moses, he did not know the books of the Bible, he was unfamiliar with the practice of communion, and he could not describe a typical church service. Contrary to the Applicant’s argument, these were not trivial questions. Rather, the foregoing are all important and basic aspects of Catholicism. It was thus reasonable for the RPD and the RAD

to expect that, after practising for 30 years and reading the Bible daily as the Applicant claimed, he would be able to answer these questions.

B. *The RAD did not err in finding the Applicant's allegations of his arrest in December 2019 were not credible*

[9] With respect to the December 2019 protest, the Applicant argues that the RAD mischaracterized his motivation for protesting and that it erred in dismissing the corroborative evidence submitted in support of his arrest.

[10] The Applicant argues that he was not protesting because of his faith, but because the arbitrary detention of his priest was unjust. He asserts that the December 2019 protest was a human rights or political protest that did not require a deep religious understanding. On that basis, the Applicant states that the RAD erred in concluding that he “failed to establish that he, himself, possesses a fervent, sincere Roman Catholic faith which impels him to defy the authorities”: RAD Decision at para 13.

[11] I agree with the Respondent that the Applicant's claim was based on the profile of someone “who felt strongly enough about his religious beliefs to protest government action”: Respondent's Memorandum of Argument at para 14. Indeed, the Applicant's Basis of Claim Narrative speaks to the Vietnamese government's interference with religious freedom:

I do not want to live in a country where the government interferes with the activities of churches and parishioners. Our church benefits me and many people, but the government has taken away our freedom of religion with vague laws. I have been Catholic for 28 years now. Catholicism in Vietnam is limited in their activities. The government does not respect the religion and its followers.

Applicant's Basis of Claim Narrative dated March 5, 2021 at para 12.

[12] I find that it was reasonable for the RAD to question the Applicant's claim of targeting by the state, given the protest flowed from the Applicant's alleged faith and the RAD found that his faith was not genuine.

[13] Furthermore, the Applicant argues that the RAD misinterpreted his corroborative evidence. He submitted a letter from a fellow parishioner to support that he was arrested at the December 2019 protest. The relevant portion of the letter reads as follows:

I am a friend of Mr. Huynh Tan Cuong. We have attended Mass at Chi Hoa Church, every Sunday since August 2010, presided over by Father Tran Dinh Long. But in May 2012, Father was banned from attending Mass and from preaching. In 2018, Father Long was celebrated at the Gospel Mission, and we joined the volunteer group at this Gospel Mission church. Because of the faith, more and more people flocked to the Church for Father's hand to pray and our volunteer group divided into 5 small groups to continue praying activities. And then Father was forbidden to celebrate mass here, so on December 25, 2019, there was a protest where a group was arrested by the government and taken to the police station. Some people were beaten for not cooperating with the police. After one night, we were released. We members were forced to sign the minutes to be released.

[Emphasis added]

[14] Relying on the use of the word “we”, the Applicant asserts that the underlined portion of the letter establishes his participation in the protest and his arrest alongside fellow parishioners. However, the RAD determined that the letter’s use of “we” did not corroborate the Applicant’s personal presence. I agree that the letter’s phrasing is equivocal. As such, the RAD’s interpretation was reasonably open to it.

C. *The RAD did not misapprehend the objective evidence*

[15] The Applicant alleges that the RAD misapprehended the objective evidence regarding his claim of being attacked by plainclothes police or hired thugs in February 2020. The Applicant testified that he inferred that his attackers were plainclothes police officers because he had no enemies in Vietnam and because of his December 2019 arrest. The RAD found that the Applicant “failed to provide evidence beyond his own admitted, conjectural conclusion that corroborates or supports this theory”: RAD Decision at para 17. As set out below, I find the RAD’s conclusion reasonable. The panel engaged with the Applicant’s objective evidence, distinguished it from his circumstances, and supplemented its own finding with additional objective evidence. Furthermore, the additional evidence referred to by the Applicant does not undermine the RAD’s finding.

[16] The RAD distinguished the objective evidence cited by the Applicant in the National Documentation Package [NDP] on two grounds. First, the evidence speaks about the use of hired thugs in the context of mass arrests at protests, which is “materially different from three persons anonymously attacking the Appellant on a street late one night”: RAD Decision at para 18. Second, the evidence refers to the harassment of different religions (including Buddhist sects,

members of the Cao Dai religion, and Montagnard Protestants). The RAD noted that the article refers to the imprisonment of one Catholic priest for pro-democracy protests, not the suppression of any Roman Catholic communities. In addition, the NDP evidence indicated warmer relations between the Roman Catholic Church and the Vietnamese government in recent years.

[17] Before this Court, the Applicant relied on another NDP article to argue that the RAD mischaracterized the objective evidence. That article reported local police sometimes using contract thugs to harass political activists and religious adherents. The Applicant argues that because the article does not state that the police only hire thugs to deal with mass protests, it undermines the RAD's conclusion.

[18] I do not agree. Rather, I accept the Respondent's argument that the "fact that this document does not specifically state that the use of thugs is confined to larger protests does not impugn the decision": Respondent's Memorandum of Argument at para 19. There was no objective evidence on the record that thugs are deployed in circumstances like those of the Applicant. To the contrary, there was evidence that hired thugs are only deployed in response to mass protests.

[19] Finally, the Applicant referred the Court to an article he had submitted to the RPD and the RAD that mentioned Father Long specifically. That article, however, is of no assistance to the Applicant. The article does not say that the Vietnamese government is trying to suppress Catholics like Father Long. Rather, the article reports the denunciation of Father Long by

mainstream Catholic bishops who warned against his purported healing practices “to expel evil spirits”.

**III. Conclusion**

[20] Based on the foregoing, there is no basis upon which to interfere with the RAD’s decision. The RAD reasonably determined that the Applicant failed to establish his refugee claim under either section 96 or subsection 97(1) of the *IRPA*. The application for judicial review is therefore dismissed.

[21] The parties did not raise a question for certification and none arises in this case.



**JUDGMENT in IMM-7726-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There is no question for certification.

“Anne M. Turley”

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Judge

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

**DOCKET:** IMM-7726-23

**STYLE OF CAUSE:** TAN CUONG HUYNH v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 24, 2024

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

**DATED:** OCTOBER 24, 2024

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