

**Date: 20071127**

**Docket: IMM-1757-07**

**Citation: 2007 FC 1239**

**Ottawa, Ontario, November 27, 2007**

**Present: The Honourable Mr. Justice Blais**

**BETWEEN:**

**WADJAMS JEAN-MARIE AHOUA**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**INTRODUCTION**

[1] This is an application for judicial review by Wadjams Jean-Marie Ahoua (the applicant) of a decision by the Immigration and Refugee Board, Refugee Protection Division (the RPD), refusing his refugee claim on the ground that he was not a “Convention refugee” or a “person in need of protection” within the meaning of sections 96 and 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. C-27 (the IRPA). The RPD’s decision was based on the applicant’s lack of credibility, primarily in regard to his subjective fear of persecution.

[2] The applicant's refugee claim was founded on his fear of persecution on the basis of his perceived political opinion, as his family was associated with the Republican Rally (the RDR), an Ivory Coast government opposition party.

[3] The Minister of Citizenship and Immigration (the Minister) is challenging the application for judicial review.

#### **RELEVANT FACTS**

[4] The applicant is a 30-year-old citizen of the Ivory Coast.

[5] He left his country in September 1999 and settled in the United States for one year. On August 27, 2000, he arrived in Canada with a student visa. He alleged that the situation in the Ivory Coast was stable when he left but that it had deteriorated when the war started in September 2002.

[6] The applicant alleged that his cousin had been arrested and had his throat slit by men in uniform. Three weeks later, his village was attacked, the houses were pillaged and burned, and his mother and aunts were killed. He alleged that his father had managed to escape, but that he was killed during an RDR march on March 25, 2004, following violent confrontations between the army and certain opponents.

[7] The applicant applied for refugee status on January 14, 2005. The RPD first refused him refugee status on July 19, 2005. On March 22, 2006, I set aside the RPD's decision and referred the matter back to the RPD (IMM-4822-05). This is now a judicial review of the RPD's second decision in regard to the applicant.

### **IMPUGNED DECISION**

[8] The RPD determined that the applicant was not credible in terms of the existence of a subjective fear of persecution and accordingly refused his refugee claim.

[9] Specifically, the RPD noted that the applicant's conduct was inconsistent with that of a person fearing persecution by the authorities of his country. In fact, the RPD determined the applicant's credibility was affected by the fact that he went to the Ivory Coast embassy on two occasions to renew his passport and that he let several months elapse between the death of his father in March 2004 – what the applicant considered to be the actual triggering event of his refugee claim – and the time he claimed refugee protection in January 2005.

[10] Further, the applicant did not file any evidence attesting to the death of his parents or evidence of his family members' membership in the RDR. The RPD also observed that the applicant knew little about the RDR and about his various trips to the United States, despite his precarious situation in the fall of 2002.

## ISSUE

[11] Did the RPD make a patently unreasonable error in refusing the applicant's refugee claim?

## ANALYSIS

[12] RPD decisions based on a claimant's lack of credibility are reviewable in accordance with the standard of patent unreasonableness (*Aguebor v. Canada (Minister of Employment and Immigration)*, [1993] F.C.J. No. 732 (QL)). Therefore, this Court's intervention would not be justified unless the applicant were to establish that the RPD's credibility assessment was made in a perverse or capricious manner or without regard for the evidence (*Anthonimuthu v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 141, Mr. Justice Yves de Montigny, at paragraph 45).

[13] In this case, a careful review of the decision leads to the conclusion that the RPD did in fact rely on the evidence filed before it. As I stated in *Biachi v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 589, at paragraph 11, it is not the role of the Court to reassess the evidence or to substitute its opinion for that of the RPD. The fact that before the same evidence I may have made a different finding than that of the RPD does not justify my intervention.

[14] In support of his position to the effect that the time period for filing a claim is only one factor among others and should not in itself be determinative, the applicant referred to the decision I made in *Soueidan v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 956. It is true that the issue of time period alone should not be enough to justify the refusal of a refugee claim.

Yet, it appears that in this case, the time period is not the only ground that the RPD considered. To the contrary, the applicant's conduct, the absence of evidence regarding the death of his family members or of their involvement in the RDR's activities, and the overall lack of subjective fear were all factors that led to the RPD's negative finding.

[15] With regard to the applicant's allegation that the RPD erred in law by failing to consider his claim as "refugee sur place" claim, it is my opinion that it should be dismissed. As the Minister pointed out, the grounds for the decision indicate that the RPD did indeed address the claim as one of a refugee "sur place" when it stated that the applicant's problems were aggravated in 2002, i.e. several years after he left the Ivory Coast and arrived in Canada, and that his situation after the events of 2002 had been analyzed by the RPD.

[16] Finally, with regard to the allegation that the RPD erred in law by failing to consider the objective element of the applicant's fear, I am of the opinion that this too must be dismissed. The Minister properly pointed out that a negative finding regarding subjective fear may render the assessment of the objective aspect of the complaint superfluous and may in itself warrant the dismissal of the claim (*Kamana v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 1695 (QL), Madam Justice Danièle Tremblay-Lamer, at paragraph 10; *Fernando v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 759, Mr. Justice Marc Nadon, at paragraphs 2 and 3; *Gamassi v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 1841 (QL), Mr. Justice Yvon Pinard, at paragraph 6).

[17] For these reasons, in my opinion the application for judicial review should be dismissed.

[18] The parties did not submit any question for certification.

**JUDGMENT**

1. The application for judicial review is dismissed.
2. No question will be certified.

“Pierre Blais”

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Judge

Certified true translation

Kelley A. Harvey, BCL, LLB

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

**DOCKET:** IMM-1757-07

**STYLE OF CAUSE:** WADJAMS JEAN-MARIE AHOUA v. MCI

**PLACE OF HEARING:** Montréal, Quebec

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AND JUDGMENT:** BLAIS J.

**DATE OF REASONS:** November 27, 2007

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