

**Date: 20071218**

**Docket: IMM-6588-06**

**Citation: 2007 FC 1331**

**Ottawa, Ontario, December 18, 2007**

**PRESENT: The Honourable Mr. Justice Phelan**

**BETWEEN:**

**TENZIN (a.k.a. TENZIN XX)**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. INTRODUCTION**

[1] The Applicant, who claimed to be Tibetan, was denied his refugee claim because identity as a Tibetan was not established to the satisfaction of the Immigration and Refugee Board (Board).

This judicial review is based on the contention that the Board refused to consider certain evidence of

identity and that the Board relied on a transcript of the Board hearing without notice to the Applicant that the Board would rely on the transcript in rendering its decision.

## II. BACKGROUND

[2] The Applicant claimed to be a Tibetan who had lived in India under falsely obtained documents. He claimed to be a monk who had left Tibet in 1996. He obtained a Resident Identity Card (RIC) and an Indian Identity Certificate (IC) by stating that he had been born in India.

[3] At his refugee hearing he produced the RIC and IC, and acknowledged that they were falsely obtained. He also produced a “Green Book”, an identity document only issued to Tibetans by the Tibetan Government in Exile. Further, he tendered photocopies of his marriage certificate, photographs of him as a monk and with the Dalai Lama, and a “hukou”, a registration document issued to each Chinese household containing the details of each registered family member.

[4] The Applicant’s refugee claim was rejected because he had not established his Tibetan national identity. In the course of the Board’s discussion of the use of fraudulently obtained documents, the Board said “the panel will not address the acceptability of any document issued in India, including the Green Book ... and the pictures that according to the claimant were taken in India”.

[5] The Applicant argues:

- (a) that the Board erred in refusing to consider relevant evidence; and
- (b) that there was a denial of natural justice in that the Board relied on a transcript of the Board's proceedings; the existence of which was not disclosed to the Applicant.

### III. ANALYSIS

#### A. *Failure to Consider Evidence*

[6] The Applicant asks this Court to draw the conclusion that because the Board used the phrase “will not address the acceptability of any documents ...”, the Board failed to consider the documents. This is too narrow a perspective on these words, when those words are viewed in the context of the whole decision.

[7] Reviewing this matter as a whole, the Board found that there were so many inconsistencies in the Applicant's story, so many false documents and illogical explanations for such documents, that the story lacked credibility. The Board concluded that it could not and need not specifically deal with other identity documents because the substrata of the Applicant's story was not credible.

[8] It is evident that the Board considered these other identity documents and concluded that it did not have to make any further specific findings of acceptability on these documents given the unacceptability of other documents and explanations.

[9] The Board is not obligated to engage in a further and more specific assessment of a document when there is sufficient evidence to discredit its authenticity, either that the document is false in form or context or that it was obtained falsely.

[10] It is irrelevant whether the standard of review is patent unreasonableness or reasonableness *simpliciter*. On the evidence before the Board, it was reasonably open to the Board to reject the Applicant's identity documents and his claimed identity.

B. *Denial of Natural Justice/Use of Transcripts*

[11] The Applicant contends that the use of the transcript of the hearing by the Board was somehow unfair and prejudicial. The Applicant says that he was not aware that the proceeding was being recorded and that the Board did not advise him of its existence or its use in the Board's decision on the merits.

[12] The Applicant cannot point to any particular unfairness or prejudice. The Applicant does not say that the transcript is inaccurate or that its existence *per se* created unfairness by interfering with evidence or submissions.

[13] The best that the Applicant can offer is that there is no way of knowing whether the transcript in the certified tribunal record is the same transcript that was relied upon by the Board. Absent any evidence that the Board's certification of the tribunal record could be in error or that a mix-up in transcripts could even occur, the Applicant's submission is wholly speculative.

[14] There is no substance to the Applicant's claim of a denial of natural justice.

IV. CONCLUSION

[15] This application for judicial review will be dismissed. The Applicant proposed a question for certification related to the use of the transcript. In the absence of any evidentiary foundation for the Applicant's assertion, the proposed question was academic and will not be certified.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** the application for judicial review will be dismissed.

“Michael L. Phelan”

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-6588-06

**STYLE OF CAUSE:** TENZIN (a.k.a. TENZIN XX)

and

THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** December 5, 2007

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

**DATED:** December 18, 2007

**APPEARANCES:**

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FOR THE APPLICANT

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FOR THE RESPONDENT

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