

Federal Court



Cour fédérale

**Date: 20091201**

**Docket: IMM-2347-09**

**Citation: 2009 FC 1228**

**Ottawa, Ontario, December 1, 2009**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**KEREN HE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] Keren He arrived in Canada from China in December 2006 and claimed refugee protection. She stated that she had been involved in an underground Christian church and was being sought by the Public Security Bureau in China. However, just before the hearing of her claim, she recanted her story entirely. She admitted that she had fabricated her claim and had filed untruthful documents in support of it. Her true motivation for leaving China and coming to Canada was to make money, not to seek refuge. Further, she conceded that she had attended a Christian church in Canada in order to

acquire some knowledge of Christianity that would bolster her claim. Still, she maintained that, over time, she acquired a genuine devotion to Christianity and, therefore, feared returning to China where she might experience religious persecution.

[2] Ms. He presented her claim to a panel of the Immigration and Refugee Board, which dismissed it. She argues that the Board failed to treat her fairly and neglected to conduct a proper analysis of the risk she might face if she returned to China. She asks me to overturn the Board's decision and order another panel to reconsider it.

[3] I can find no basis for overturning the Board's decision and must, therefore, dismiss this application for judicial review.

## II. Analysis

[4] The issues are:

1. Did the Board conduct a fair hearing?
2. Should the Board have conducted a separate analysis of Ms. He's claim under s. 97 of the *Immigration and Refugee Protection Act*?

1. *Did the Board conduct a fair hearing?*

[5] Ms He submits that the Board was required to give her a fair chance to present her claim, notwithstanding her original false account of events. In particular, given that she was unrepresented by counsel, the Board was obliged to give her more of an opportunity to convey her knowledge of Christianity. I disagree.

[6] Given her recantation, the only evidence supporting Ms. He's claim was her own testimony, a baptismal certificate, and a certificate indicating her completion of a course in Scripture, Prayer and Bible Reading. She admitted that a letter from her pastor describing her involvement in the church was false. At the hearing, she was able to recite the Lord's Prayer and part of Psalm 23.

[7] The Board drew negative inferences regarding Ms. He's credibility, not only because of her admitted attempt at fraud, but because she evaded and refused to answer a number of questions at the hearing. While the Board was satisfied that Ms. He had some knowledge of Christianity, by her own admission, this knowledge was acquired in order to further her bogus refugee claim. Therefore, the Board was not persuaded that she was a genuine Christian.

[8] I cannot conclude that the Board treated Ms. He unfairly. The reason why there was so little evidence supporting her claim was because the materials she had previously supplied contained false allegations and assertions. The reason why the Board was not satisfied that her faith was genuine was because she admitted that her knowledge of Christianity was acquired for an oblique motive. Providing Ms. He with further opportunities to display her knowledge would not have advanced her claim.

[9] In my view, the Board gave Ms. He a fair chance to present her claim and arrived at a reasonable conclusion based on the evidence before it.

2. *Should the Board have conducted a separate analysis of Ms. He's claim under s. 97 of the Immigration and Refugee Protection Act?*

[10] Ms. He submits that the Board should have gone on to conduct an analysis of her claim under s. 97 even though it found no basis for her refugee claim. Again, I disagree.

[11] The Board concluded that Ms. He was not a genuine Christian. Having made that finding, there was no basis for any claim to be at risk on return to China. The foundation for her claim to be in need of protection had collapsed. In these circumstances, "a separate section 97 analysis is not required if there is no evidence that could go to establishing that the person is in need of protection" (*Biro v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1428, at para. 21).

Accordingly, the Board committed no error by failing to deal with s. 97.

[12] This application for judicial review is dismissed. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT**

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

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

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Judge

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

**DOCKET:** IMM-2347-09

**STYLE OF CAUSE:** HE v. MCI

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** November 24, 2009

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** December 1, 2009

**APPEARANCES:**

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Brad Gotkin FOR THE RESPONDENT

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