

Federal Court



Cour fédérale

Date: 20100825

Docket: IMM-6349-09

Citation: 2010 FC 840

Toronto, Ontario, August 25, 2010

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

PAUL AGGE ELIMBY NGALLE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Paul Agge Elimby Ngalle is a citizen of Cameroon whose claim for refugee protection was refused by the Refugee Protection Division of the Immigration and Refugee Board. Mr. Elimby Ngalle alleges that the Board erred by basing its negative credibility findings on matters that were not material to the central issues in the claim, and by ignoring documentary evidence which supported his claim.

[2] For the reasons that follow, I am not persuaded that the Board erred as alleged.

Consequently, the application for judicial review will be dismissed.

Did the Board Base its Credibility Finding on Irrelevant Considerations?

[3] The Board made negative credibility findings based upon inconsistencies in Mr. Elimby Ngalle's evidence relating to his educational history and his marital status. Mr. Elimby Ngalle says that this was unreasonable, as both of these matters were completely irrelevant to the question of whether he faced a well-founded fear of persecution in Cameroon because of his membership in the South Cameroon National Congress (SCNC).

[4] The Board provided detailed reasons for disbelieving Mr. Elimby Ngalle's story. Its negative credibility findings were based upon numerous inconsistencies and discrepancies in his testimony. Some of these findings, such as the finding relating to Mr. Elimby Ngalle's inability to recall the full name of the SCNC and his description of the organization as a social group rather than a secessionist political movement, went to the very heart of his claim.

[5] While the findings relating to Mr. Elimby Ngalle's educational history and marital status were less central to his claim, they were by no means irrelevant to it. Mr. Elimby Ngalle claimed to have become involved in the SCNC in 1994, while he was attending university. The Board was thus understandably troubled by the inconsistencies and gaps in Mr. Elimby Ngalle's evidence as to when he finished high school, when he commenced university, and whether or not he worked for a period of time before commencing his university studies.

[6] The inconsistencies in Mr. Elimby Ngalle's evidence regarding his marital situation were relevant to his status in South Africa during the years that he says he spent there after leaving Cameroon. Although he claimed to have been involved in a common law relationship, it turns out that he was able to obtain permanent residency in South Africa (which he later lost) as a result of his formal marriage to a South African woman.

[7] Mr. Elimby Ngalle has also not been able to explain away the serious inconsistencies in the evidence as to his physical location at various times. For example, he claims to have been in South Africa in 2003, but could not explain how he was able to renew his Cameroonian driver's license *in person* in 2003 if he never once returned to Cameroon during that year.

[8] Similarly, Mr. Elimby Ngalle was unable to explain how he was able to provide his original passport to the Canadian Embassy in South Africa in the summer of 2004 in support of an application for an employment visa, at a time that he says that he was using it to travel to Cameroon. This is a particularly troubling discrepancy, given his claim that he was imprisoned and tortured during this visit to Cameroon because of his SCNC activities.

[9] Consequently, Mr. Elimby Ngalle has not persuaded me that the Board erred by making negative credibility findings based upon irrelevancies.

Did the Board Err by Ignoring Documentary Evidence?

[10] Mr. Elimby Ngalle says that the Board also erred by ignoring documentary evidence that supported his claim, namely a copy of what he says was his SCNC membership card and a letter purporting to be from the SCNC, attesting to his involvement with the organization.

[11] It is true that the Board did not refer to these documents by name. However, it is clear from a fair reading of the discussion of the “conflicting documentary evidence” at paragraphs 29 and 30 of the Board’s decision that the Board did not believe that the documents in issue were genuine. As a result, I am not persuaded that the documents were ignored by the Board.

Conclusion

[12] For these reasons, the application for judicial review is dismissed.

Certification

[13] Neither party has suggested a question for certification, and none arises here.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application for judicial review is dismissed; and
2. No serious question of general importance is certified.

“Anne Mactavish”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6349-09

STYLE OF CAUSE: PAUL AGGE ELIMBY NGALLE v.
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: August 24, 2010

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

DATED: August 25, 2010

APPEARANCES:

Kingsley I. Jesuorobo

FOR THE APPLICANT

Nicole Rahaman

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Kingsley I. Jesuorobo
Barrister and Solicitor
Toronto, Ontario

FOR THE APPLICANT

Myles J. Kirvan
Deputy Attorney General of Canada

FOR THE RESPONDENT