

THE HIGH COURT**JUDICIAL REVIEW****Record No. 2009 / 1179 J.R.****Between:****N. R. M. [DRC]****APPLICANT****-AND-****THE REFUGEE APPEALS TRIBUNAL,****THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM, ATTORNEY GENERAL AND IRELAND****RESPONDENTS****JUDGMENT OF MS JUSTICE M. H. CLARK, delivered on the 20th day of January 2014.**

1. This decision relates to the treatment of medical evidence by the Refugee Appeals Tribunal in circumstances where the applicant's claim has been rejected as implausible, inconsistent and not credible. The applicant argued before this Court that notwithstanding the credibility findings which are not challenged, the Tribunal decision ought to be quashed by an order of certiorari as the Tribunal Member failed to properly consider a SPIRASI medical report which diagnosed post-traumatic stress disorder (PTSD) and also failed to explain why that evidence was not given any or appropriate weight.

2. This argument was complicated by the fact that at a late stage in the proceedings the respondents brought a motion to dismiss the proceedings on the basis of the applicant's lack of candour and good faith or alternatively as an abuse of process as information recently received from the United Kingdom Border Agency (UKBA) established that the applicant had been issued with a six month multi-visit visa for the United Kingdom not long before she claimed asylum in this State. UKBA records show that she entered the United Kingdom (UK) on the 3rd February, 2008, when her fingerprints were matched to her visa. She travelled on a passport issued to her in Kinshasa in 2007 and there was no evidence that she had subsequently returned to the Democratic Republic of the Congo (DRC) from the UK nor did she claim asylum there.

3. Obviously, if she was in the UK from the 3rd February, 2008, the later part of her claim which relates to events in March, 2008 could not have happened. In an affidavit sworn by the applicant, she accepted that she was in the UK for the purposes of selling Congolese dried fish and gold jewellery and buying clothes for subsequent sale in Kinshasa markets. She says she entered the UK twice on her visa - first for three weeks November, 2007 and then for two weeks in February, 2008. She admitted lying about never having held a passport and saying she had never been out of the DRC. She claimed that she returned to the DRC in late February, 2008 but as her passport was stolen after her return she was unable to establish the truth of that averment. She claimed in her affidavit that she had no reason to leave the DRC earlier or to seek asylum when she was in the UK as she was happy and successful in her work as a trader, was making a good income and had no problems. Those averments will be set against her asylum claim in due course.

4. The Court agreed to hear both applications together and to consider the motion to dismiss after the assessment of the claim for judicial review where the parties had agreed to a telescoped hearing. At the hearing, the twenty-eight general and repetitive grounds originally claimed were reduced to one sole challenge, namely the inadequate treatment of the findings of PTSD made in the SPIRASI medical report. Mr Mark de Blacam S.C. with Mr Karl Monahan B.L. appeared for the applicant and Ms Fiona O'Sullivan B.L. appeared for the respondent Tribunal.

Background

5. When the applicant applied for asylum on the 27th March, 2008, she said she had left Kinshasa two days earlier and travelled to Ireland via Congo Brazzaville, Morocco and Turkey using a Portuguese passport provided by a facilitator and that she had never held a passport and had never been outside of the DRC. She claimed that she was born in 1976 in Kinshasa and that she feared persecution at the hands of the DRC government by reason of her religion and political opinion. In relation to the religious aspect of her claim she said she was a long-standing member of Pastor Kutino's *Église Armée de Victoire* and politically she said she was a member of Jean Pierre Bemba's *Movement for the Liberation of Congo* (MLC).

6. Her fear of persecution on both grounds was complexly woven together and in the view of the Court her story consisted of three parts. Her problems began when Pastor Kutino was arrested on the 14th May, 2006. She said she hid in his church in an office while soldiers arrested him. She was discovered by the soldiers who then tried to rape her and in attempting to do so one of them tried to remove her trousers with a knife but he stabbed her in the stomach and she lost consciousness. She spent three months in hospital in Kinshasa, initially for treatment and then to undergo two operations necessitated by iatrogenic medical complications. Significant abdominal scarring was objectively present and referred to in a number of medical reports and photographs furnished to the asylum authorities. By January, 2007 she had fully recovered and returned to her voluntary work with her church where she visited hospitals and prisons and distributed food as part of a social group in the Church, and also to her main occupation as a trader in the market.

7. A separate aspect of her claim involved her membership of the MLC which she joined in 2006. She sought to advance their cause by recruiting members while at her work in the market. This activity caused her to be assaulted on a number of occasions and she was even abducted for short periods. During such abductions she was warned to give up her support for the MLC or face death. All of these threats and assaults occurred in 2007. When she began to fear for her life she cut back on her activities. This persecution for her membership of the MLC is to be contrasted with her claim in a latter affidavit which stated that she did not need to seek asylum which stated that she did not need to seek asylum when in London because she had a good life, earning a good income and supporting her family in Kinshasa.

8. The third issue arose on the 12th March, 2008 when two government agents came to her home and offered to pay her \$20,000 to poison Pastor Kutino who was in jail. She understood that if she refused she would be killed so she accepted part payment of \$10,000 together with the small vial of poison which the men had brought with them. She immediately informed the Pastor's wife of what had happened and they went to the prison to speak to Pastor Kutino himself. He advised the applicant to leave the country immediately. She organised her documents and stayed with a friend that night in anticipation of her flight to Congo-Brazzaville. On the same night – the 14th March, 2008 – she was arrested at her friend's house by government agents who detained her for five days. During this time she was beaten, humiliated, tortured and repeatedly raped. A prison guard eventually recognised her surname as he had worked for the state security service with her father. He agreed to help her to escape if she would pay him a substantial sum of money. She gave him \$8,000 from the money she received to poison the Pastor and paid a further \$4,500 to a man introduced to her by the guard. This man then brought her to Ireland using his wife's Portuguese passport but the man took back this passport from her after they went through Dublin airport. She obtained the money from her bag of documents left at her friend's house before she was arrested on the 18th March, which included her savings / capital from her market business.

9. The applicant submitted several identity documents and it is not disputed that she is who she says she is. Those documents were her voting card, her trader's licence, her church membership badge and her MLC membership card. A curious feature about these documents is that although they were issued on different dates and several years apart, they all bear the same photograph with the exception of her voting card which depicts a very different hair style. Furthermore, the same photograph as appears on all the other ID documents is also on the visa application form sent to the UKBA. The applicant explained that they were very old photographs and that she had used many copies of them in various applications over the years. It seems to the Court that the photographs look very like the photograph taken by ORAC at the Section 8 interview which suggests that the photographs on all the documents apart from the older voting card were of recent origin.

10. The applicant's major problems on credibility derive from a letter which she presented to the ORAC which purports to be from the MLC. It is dated the 17th November, 2007, and is described in its title as a certificate of evidence (Attestation Portant Temoinage). The letter described the applicant as *"an active member in charge of protocol and public relations"* who had encountered *"many problems with the security agents and government forces of the actual government. She has been arrested, tortured and intimidated on several occasions"*. This letter was unhelpful to her claim owing to the following specific statement: *"as she is actually living abroad, we ask the international organisations in charge of protecting human rights as well as the government of the hosting country to bring her assistance and protection."* The applicant was questioned extensively by the ORAC on why she would have received such a letter and what the purpose of the letter was if – as she said – she had never left the DRC. The applicant claimed that the letter was furnished to her without any request on her part as a sort of recognition of her services which she could later show to her children. In her first Section 11 interview she said she received the letter *"because in 2006, when they arrested the pastor, I was stabbed by the people who arrested him and after this incident, the party issued me with this letter... when they saw all that happened to me because of my activities in the party, they gave the letter to me... the contents are all that happened to me in my country and all the intimidation and persecution I suffered."* However, she never made any claim which connected the arrest of Pastor Kutino with the MLC nor was the apparently random rape / attempted rape by the soldiers on that day in March, 2006 related to her activities in the MLC. Further, the only claim she made of arrest and torture arose from the alleged events of the 12th March, 2008 onwards, several months after the certificate was written.

11. The letter heavily influenced the Commissioner's credibility assessment. While the Commissioner accepted in his Section 13 report dated October, 2008 that she had displayed a sound level of knowledge of the circumstances surrounding Pastor Kutino's arrest, it was found the MLC letter cast *"a major doubt"* over her claim which was then rejected.

Appeal

12. On appeal the applicant sought to address the credibility findings made by the Commissioner. Her legal representatives specifically addressed the sentence in the MLC letter which described her as *"actually living abroad"* by providing a corrective, explanatory letter from the MLC ('Note Explicative'). This note explained that letters such as had been provided to the applicant *were regularly delivered on a proactive and systematic manner to certain party faithful who had suffered because of their activism and that the description as she is actually out of the national territory or as she is actually living abroad was for the convenience of the holder of the certificate.*

13. The applicant's representatives also submitted a **SPIRASI** medical report dated March, 2009. The report records her account of the violent attempted rape in 2006 when she was badly injured by the soldier, the incident of the poisoning of Pastor Kutino and the subsequent detention and multiple assaults including beating her head with the butt of a gun until she lost consciousness, frequent and daily kicking and multiple acts of humiliation and rape. The reporting SPIRASI doctor noted that her mood was subjectively and objectively depressed, that she was suffering with a depressive disorder, that she had an irregular abdominal scar which was highly consistent with her reported history of stabbing in 2006, and that she fulfilled the criteria for a diagnosis of PTSD including constant anxiety and fear, repetitive and intrusive recollections, detachment, compromised sleep and appetite and concentration, and increased startle response and hyper-vigilance. It was noted that she lived in a hostel in a room which she shared with two other women and that she felt she had no future as no man would accept her for her abdominal scarring. It was also noted that she had undergone hysteroscopy and had fibroids.

14. The applicant also furnished the Tribunal with photographs of her abdominal scarring and a discharge note from a Dublin hospital outlining a recent admission for acute abdominal pain and investigations which revealed the presence of fibroids and also extensive scarring from abdominal surgery post stabbing with a 'machete'.

The Appeal Hearing

15. The Court was furnished with notes taken by RLS representatives who attended at the lengthy oral appeal hearing which took place in August, 2009. The notes corroborate each other and mirror the Tribunal Member's record of the applicant's evidence which is set out in his decision. At that hearing she provided further details of her original claims relating to her treatment because of her MLC activities. She provided the approximate date (March, 2007) on which she was forced into the back of a taxi when two other passengers warned that she would be killed because of her membership of the MLC. She was then let out many miles from her destination. She said she was threatened again by different people at a taxi rank in May, 2007 and again in June or July, 2007 when she was beaten and all her possessions including her jewellery were taken. She was then scared and decided to sever her relationship with the party. The MLC was aware of her situation and gave her a letter in November, 2007. She didn't know what she was supposed to do with the letter at the time.

16. The applicant also reiterated her account of being asked to poison the Pastor and elaborated on her conditions of detention and rape in 2008, her escape from prison and her travel on the facilitator's wife's passport. She was asked a series of questions about her visits to the Pastor in prison and about the last parliamentary elections before she left DRC. She was unaware of the exact number of

MLC members elected but knew that there was little difference between Bemba's party and Kabila's party. COI shows that the MLC did not do well although Bemba put on a good showing in the first round of the Presidential elections. She was questioned about certain differences between the two MLC letters (for example, the flags on the headings were different and the notepaper in each was different). She was also questioned about the prison where Pastor Kutino was held and said that many hundreds of prisoners were held there, that they were entitled to daily visits and that the prisoners were supervised by many guards, including one of whom was armed. The food was given individually to the prisoners who came and took the plates in an open place but the guard went to the Pastor's individual cell with his food. She was asked why the government would select her to poison the Pastor when they could have asked a prison guard. She replied that they knew she went to the prison and knew that she could approach him.

The Impugned Decision

17. The Tribunal decision contains a detailed summary of the evidence given at the oral hearing. In his analysis the Tribunal Member noted that the applicant was articulate, competent, educated and well able to communicate with the Tribunal through an interpreter. He noted that "[a] SPIRASI report was put in evidence outlining the applicant's evidence of how she obtained the scars on her body and went on to give an opinion of the applicant. The applicant was diagnosed of PTS disorder and she is best managed within the context of a multi-disciplinary community mental health team which would give her counselling and support". He also noted that the SPIRASI report was referred to in the submissions made by the two parties.

18. The Tribunal Member stated that his function was to determine the validity of any evidence and the credibility of the applicant's statements, and that such statements could not be considered in the abstract but had to be viewed in the context of relevant background situations. He rejected her credibility because of "problematic inconsistencies" in her account. He divided her claim into three episodes:- the rape of 2006, the threats associated with her membership of the MLC and finally the request to poison Pastor Kutino. He identified her credibility problems as follows:-

- (i) Her evidence about the rape or attempted rape in 2006 was inconsistent;
- (ii) The two MLC letters were not credible and she was unconvincing when explaining the two letters.
- (iii) She was unconvincing when asked about the numbers of MLC deputies or senators elected at the last elections. It was therefore not credible that she was an active MLC member;
- (iv) The claim that government agents asked her to poison the Pastor because she was a regular visitor to his jail was highly implausible;
- (v) She was unconvincing in relation to the workings of the prison and her evidence about there being just one armed guard was not credible;
- (vi) It was not credible that two government agents would solicit her to assassinate the Pastor, a high profile prisoner, considering her claimed personal history of being severely injured by soldiers in 2006, kidnapped on three occasions and beaten by government agents because of her MLC membership in 2007;
- (vii) Her evidence that after she had taken the money from the agents two further agents were sent to look for her was not credible;
- (viii) Her evidence of her detention for five days was contrived;
- (ix) She put forward no evidence from the hospital where she was allegedly treated;
- (x) She did not put forward any evidence to establish the true circumstances in which she sustained scars; and
- (xi) When Section 11B of the Refugee Act 1996 was applied, her evidence of traversing four international airports using a passport which did not contain her photograph or name was not credible.

19. The Tribunal Member affirmed the Commissioner's negative recommendation.

Recent Revelations

20. When these findings are considered and placed against the now established fact that the applicant had a passport and a visa to visit the UK and did actually enter the UK in February, 2008 it becomes clear that the doubts about her claim expressed by the Tribunal Member are well placed. It is clear that the applicant lied to the asylum authorities and that the fact of her stay in the UK without seeking asylum casts extreme doubt over the truth of her claims to have been persecuted throughout 2007 because of her activities in the MLC.

21. After the respondents brought their motion to dismiss her claim the applicant filed a supplemental affidavit in which she accepts that she did travel to the UK in February, 2008 but says returned after a fortnight, and avers that she also visited the UK in November, 2007 and that on each occasion she did so to buy and sell goods. She provided very detailed information on the goods which she sold at her market stall which is very considerably more detailed than reasonably required and does not accord with her previous description given to ORAC and SPIRASI of her market activities as selling vegetables *including potatoes and tomatoes*, and her later description to the Tribunal of selling 'groceries'. The strong suspicion is that this is a deliberate effort to paint herself as successful and prosperous and therefore not disposed to apply for asylum when she was in the UK.

22. Misrepresentation and dishonesty in the asylum process cannot be taken lightly. This is clear from a long line of authority (see e.g. the judgments of this Court in *O.S.D. & Ors. v. The Minister for Justice and Equality* [2010] IEHC 390 and *R.C. & G.G.M [Zimbabwe] v. The Commissioner & Ors* [2010] IEHC 490, among others, and those of Kearns P. in *Sivsiwadze & Ors v. The Minister* [2012] IEHC 244 and McDermott J. in *A.G. v. Refugee Appeals Tribunal* [2013] IEHC 247). Section 11C of the Refugee Act 1996 imposes on each asylum applicant a duty to cooperate in the investigation of his / her claim and in the determination of any appeal, and to furnish to the asylum authorities all relevant information in his / her possession, control or procurement. Section 11B (i) requires the Commissioner and the Tribunal, when assessing credibility, to have regard to whether the applicant has complied with Section 11C, and Section 11B(f) thereof further requires the said authorities to have regard to whether the applicant has produced manifestly false evidence in support of his / her claim, or has otherwise made false representations, whether orally or in writing. Moreover it is a criminal offence under Section 20(2) of the Act to give or make to the Commissioner or the Tribunal or any

immigration officer any statement or information which is to the asylum seeker's knowledge, false or misleading in any material particular. It is therefore not adequate when misrepresentation has been established to say 'I accept that what I said was untrue' and then apologise for the lies, without giving a clear, coherent, substantial and reasonable explanation for actively misleading the asylum authorities.

23. Misrepresentation and dishonesty must not be rewarded and should have consequences especially when an applicant has had many opportunities to disclose any earlier misrepresentation motivated, for example, by fear of being returned to the country one has fled. In this case there was nothing to prevent the applicant from telling the truth to the ORAC about her passport and her visa for the UK on the two occasions when she was interviewed in August and September, 2008, a good six months after she arrived in this State, and one can only suspect in the absence of any clear explanation for her mistruths that she had something to conceal.

Submissions on Judicial Review

24. As noted above, the applicant's 'outline' written submissions address virtually every issue raised in her 28 grounds but at the hearing the primary argument related to the treatment of the SPIRASI report and it was accepted that many of the credibility findings made in the decision under challenge were open to the Tribunal Member. The central submission made on her behalf was that given the applicant's narrative of unlawful arrest, detention, torture and rape, the Tribunal Member's treatment of the SPIRASI report was totally inadequate. The trigger for the applicant's departure from the DRC was the events of March, 2008 when she was detained and raped when she refused to poison the Pastor and that this was the core of her case. The SPIRASI report is a clear and professional document which unequivocally states that the applicant suffers from PTSD and is subjectively and objectively depressed. The personal history described in the report is consistent with her account of events to the Commissioner and Tribunal. In addition, the report uses the language of the Istanbul Protocol when it says her scar was "highly consistent" with her account of being stabbed in 2006. He submits that any fair-minded and competent decision-maker would query whether there was any connection between the PTSD, flashbacks, intrusive recollections and depression and the applicant's account. Any reasonable person would consider that her PTSD diagnosis was relevant and should be addressed. It was a matter for the Tribunal Member to determine what weight was to be attached to the report but he should not have ignored it. The applicant relies on the judgment of McGovern J. in *N.M. v. Minister for Justice, Equality and Law Reform & Another* [2008] IEHC 130 in this regard. With regard to the applicant's recently exposed lack of candour, Mr de Blacam submitted that her lies did not affect the fact that she did suffer a traumatic incident and she is undoubtedly a traumatised person.

25. Ms O'Sullivan B.L. for the Tribunal took the Court through the dishonest evidence in relation to her date of birth, passport, travel and visa. Her lies affected the acceptance of her asylum application in this jurisdiction; had it been known that she had been to the UK, her case might have been transferred there. She conveniently claims the theft of her passport so that her claimed return to the DRC cannot be established and she has never specified the date of her return to the DRC. The purpose of her visa was for a visit but she says she engaged in trade. Her account at interview of her conversation with her travel 'agent' about going to the UK is not consistent with the account given in her supplementary affidavit. Her protestations to the Commissioner and the Tribunal about the contents of the MLC letter dated November, 2007, which stated that she was abroad at that time, are now contradicted by her averment that she was in the UK for three weeks in November, 2007.

26. In Ms O'Sullivan's submission, the SPIRASI report was the only evidence before the Tribunal in relation to the applicant's PTSD which was at the lower end of the scale and the report does not specify when the event that triggered the PTSD occurred. There was no other evidence to show, for example, that she was treated by a psychiatrist in Ireland. Furthermore, she appeared competent and articulate to the Tribunal. Contrary to what was submitted by Mr de Blacam, there were in fact inconsistencies between the account given to the Commissioner and to the SPIRASI physician. For instance, in relation to the frequency of her visits to the Pastor in prison.

DECISION

27. The primary argument in this case - as the Court understands it - is that once the Tribunal Member was on notice of a diagnosis of PTSD, he was required to factor that diagnosis into his credibility assessment, to ask himself what caused that PTSD and whether the cause might support or corroborate the applicant's account of arbitrary arrest, detention and ill-treatment in March, 2008. If he considered that the diagnosis was not sufficiently material then he should have explained why. The respondents argue that, on the contrary, it was sufficient for the Tribunal to refer to the diagnosis and in light of the numerous credibility issues highlighted it was not necessary to refer any further to the SPIRASI report.

28. It is clear to the Court that the decision under challenge shows that the Tribunal Member was fully aware of the applicant's account of being stabbed in 2006 and that she had a significant scar as he expressly referred to photographs of that scar which were submitted at the hearing. The applicant did not flee the DRC after she was stabbed; she was hospitalised and had two operations and after a period of rest she returned to her normal life. There is nothing to suggest she was specifically targeted in 2006 nor was it any part of the applicant's case that members of her church are generally persecuted or that if she were returned to the DRC that she would be persecuted because she was a member of the Pastor's church who was present when he was arrested or because she visited him in prison thereafter. Her claimed specific fear of persecution was based on her asserted refusal to poison the Pastor in March, 2008 and the events which followed over which there is a great deal of scepticism. If the events of 2006 are not the cause of her asserted flight and are not the cause of the PTSD described in the medical report, then awful as the scarring is to the applicant, it has no real relevance to the applicant's claim or to the medical report except that it contributes to the applicant's low self esteem.

29. The Court has difficulty in following the logic of the applicant's submissions relating to the weight which Mr de Blacam argues should attach to the medical report in circumstances where valid and undisputed credibility findings are made. The Tribunal Member considered the medical report at the commencement of his assessment and noted the relevant finding. He then went on to consider the applicant's statements and documents and concluded that relevant aspects of the applicant's story were implausible and inconsistent. In such circumstances it would require a medical report containing very compelling objective findings to require a fair minded assessor to pause or reconsider the plausibility of the applicant's story. The reality is that apart from the scarring which is not related to the applicant's alleged flight, no objective findings were made in the SPIRASI report apart from the doctor's opinion that she suffered PTSD and a depressive disorder. No evidence was produced to support the applicant's claim of being struck by hand guns by two soldiers until she lost consciousness nor was there any suggestion of scarring or marking consistent with alleged regular kicking by soldiers when she was in detention in 2008.

30. It is difficult to understand what more a Tribunal Member is supposed to do with a subjective medical report (which is highly dependent on the narrative of an applicant who knows that her asylum claim has failed at first instance) other than note its content especially when as occurred here, the balance of the evidence is overwhelmingly in favour of a finding of a lack of credibility particularly in light of the contents of two manifestly dishonest letters purporting to come from the MLC. It is almost absurd to suggest that the Tribunal Member's findings should be invalidated simply because the applicant's self-reporting of events to SPIRASI was consistent with her account to the Commissioner and the Tribunal. This is especially so in this case where it was quite reasonably

doubted that those events of 2008 had ever occurred and on which further doubt has arisen following recent revelations of her travel to the UK and her inability to prove that she ever returned to the DRC.

31. In this case, the Tribunal Member correctly noted the diagnosis of PTSD at the beginning of his assessment of the facts. He neither disputed nor rejected the diagnosis but it is self-evident from his findings that if the applicant has depression or PTSD, their cause could not have been from the claimed detention, torture or multiple rapes in March 2008 because those events were found to have been contrived. This is not therefore a case governed by the basic principle that where an applicant provides a story which might be true and the medical evidence tends to confirm his / her story, then the overall assessment of the evidence should weigh in his favour (see e.g. *R.M.K. (DRC) v. The Tribunal* [2010] IEHC 367, at para. 20). If findings made in a medical report are capable of being linked to the mistreatment which forms the basis of an asylum claim but the Tribunal Member wishes to make negative credibility findings about that mistreatment, he or she must expressly explain why the medical evidence is being discounted as having a bearing on the credibility issue (*T.M.A.A. v. The Tribunal* [2009] IEHC 23, Cooke J., at paras. 13-15). Where a SPIRASI report is not capable of corroborating the applicant's claim in an objective way, it is sufficient to properly consider and note its contents.

32. Constant anxiety and fear, depression, repetitive and intrusive recollections, detachment, compromised sleep, appetite, concentration, increased startle response and hyper-vigilance were not features of the applicant's presentation to the ORAC in August and September, 2008 nor are they easily reconciled with the Tribunal Member's description of the applicant as articulate, competent, educated and well able to communicate through an interpreter. Further, there is no finding in the SPIRASI report as to whether her depression and PTSD arise from the described 2008 experiences or from some other experience before or after she left the DRC, for example her obviously distressing and painful fibroids or living in less than ideal conditions as an asylum seeker while away from familiar surroundings. In the circumstances, the Court is satisfied that the PTSD diagnosis was not capable of corroborating the applicant's account of detention in March, 2008. It could not explain the many aspects of her claim which simply ran counter to common sense and which the Tribunal Member validly found to be unconvincing and it does not explain the inconsistency of the MLC letters with her account or her failure to tell the truth to the authorities about her travel to the UK.

33. Ultimately, the Court is not satisfied that the Tribunal's treatment of the medical report was in error. If some criticism could attach to the decision for not explaining the reasons why such light weight was accorded to the diagnosis of PTSD, such criticism is insufficient to vitiate an otherwise sound determination.

34. While the Court remains unimpressed by the applicant's lack of candour in the asylum process and in her attempted explanations for that dishonesty, at the end of the day it is unnecessary to consider whether that lack of candour warrants the striking out of the proceedings as the application for judicial review fails. It is a matter of deep regret that an invasive and vicious crime like rape is ever invented or the circumstances surrounding such a crime dressed up as ethnically, politically or religiously motivated as a reason for seeking asylum. Such casual misuse of one of the worst invasions of bodily and psychological integrity can only debase the utter vileness of the crime and should be avoided.