



RPD File No. / N° de dossier de la SPR : VB8-03452
Client ID No. / No ID client : XXXX

Huis clos / Private Proceeding

Reasons and Decision – Motifs et décision

Claimant(s)	XXXX XXXX XXXX XXXX	Demandeur(e)s d'asile
Date(s) of hearing	May 29, 2019	Date(s) de l'audience
Place of hearing	Heard by videoconference in Edmonton, AB and Vancouver, BC	Lieu de l'audience
Date of decision and reasons	August 12, 2019	Date de la décision et des motifs
Panel	Chad Prowse	Tribunal
Counsel for the claimant(s)	Simon K. Yu Barrister and Solicitor	Conseil(s) du (de la/des) demandeur(e)s d'asile
Designated representative	N/A	Représentant(e) désigné(e)
Counsel for the Minister	W. Insell	Conseil du (de la) ministre

REASONS FOR DECISION

[1] The claimant alleges that she is XXXX XXXX XXXX XXXX a citizen of Cameroon with a date of birth of July 21,1968. The claimant claims refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act* (IRPA).¹

ALLEGATIONS

[2] The claimant's allegations are set out in her Basis of Claim (BOC) form and narrative,² received July 10, 2018. Following the intervention of the Minister in this claim on May 14, 2019, the claimant disclosed two revised or supplementary narratives. The relevant details contained in her BOC and narratives will be discussed in more detail below, however, in brief, she alleges the following:

[3] The claimant has been arrested and tortured by police or other authorities due to her political affiliation and activities as a member of the Southern Cameroons National Council (SCNC) and as a member of a human rights defence group.

[4] The claimant distributed flyers at SCNC events and at her restaurant, where people discussed politics.

[5] The claimant was at her restaurant giving out flyers about an upcoming rally, when gendarmes stormed the restaurant and arrested everyone. She was detained at the Bamenda old police station for three days, mistreated, humiliated, and sexually assaulted.

[6] The claimant was released after the intervention of the human rights defence group, members of which protested at the police station for their release.

[7] The claimant was forced to sign a statement, and was threatened by the police before her release. After her release she was admitted to the hospital and treated for four days.

[8] The claimant continued to operate her restaurant, which had been ransacked in her absence. She continued to distribute flyers in secret.

[9] The claimant escaped a subsequent arrest attempt at her restaurant. She fled out the back of her restaurant with some others when gendarmes stormed in and arrested most of the customers for discussing SCNC events.

[10] The claimant fled to her friend XXXX house. The gendarmes went to her residence in search of the claimant, and beat her two sons.

[11] The claimant remained in hiding with her friend until she found an agent who helped her to flee.

[12] The claimant used a passport that was not hers to travel from Cameroon through France to Calgary.

[13] After her departure, her home was searched by gendarmes and her neighbours were questioned about her whereabouts.

[14] In her revised narrative, disclosed after the Minister intervened in the claim, the claimant alleges that many of the key events in Cameroon actually happened a year earlier than she alleged in her original BOC. She altered these dates to disguise the true date of her entry to Canada in 2016.

[15] The claimant also alleges that her father and son were recently killed by government forces during an attack on their village.

[16] The claimant alleges that she will face persecution in Cameroon as a perceived member or supporter of the SCNC.

DETERMINATION

[17] I find that the claimant is not a Convention refugee in that they do not have a well-founded fear of persecution for a Convention ground in Cameroon. I also find that the claimant is not a person in need of protection in that her removal to Cameroon would not subject her personally to a risk to her life or to a risk of cruel and unusual treatment or punishment, and in that there are no substantial grounds to believe that her removal to Cameroon would subject her personally to a danger of torture.

ANALYSIS

[18] The determinative issues in this case are identity and credibility.

[19] A claimant must provide acceptable identity documents, or provide a reasonable explanation for their absence.

[20] Section 106 of the *Immigration and Refugee Protection Act* states that:

106. The Refugee Protection Division must take into account, with respect to the credibility of a claimant, whether the claimant possesses acceptable documentation establishing identity, and if not, whether they have provided a reasonable explanation for the lack of documentation or have taken reasonable steps to obtain the documentation.

[21] Subsection 100(4) of the IRPA provides, in part, that the claimant must produce all documents and information as required by the rules of the Board.

[22] Rule 11 of the *Refugee Protection Division Rules (RPD Rules)*, in turn, provides that:

The claimant must provide acceptable documents establishing identity and other elements of the claim. A claimant who does not provide acceptable documents must explain why they were not provided and what steps were taken to obtain them.³

[23] With respect to credibility, when a claimant swears to the truth of certain allegations, this creates a presumption that those allegations are true unless there is reason to doubt their truthfulness⁴. Additionally, when assessing credibility the panel is entitled to rely on its rationality and common sense.⁵

[24] Counsel submits that there is sufficient and credible evidence to establish that the claimant is XXXX XXXX XXXX XXXX.

[25] The Minister submits that the claimant's real identity is XXXX XXXX XXXXa national of Cameroon who entered Canada as a visitor in XXXX 2016, and that XXXX XXXX XXXX XXXX is a false identity used by the claimant.

[26] I find that the claimant has not established her identity as XXXX XXXX XXXX XXXX, a citizen of Cameroon born on XXXX XXXX, 1968.

[27] I find that the claimant is not a credible witness, and the presumption that her testimony is truthful has been rebutted.

[28] The claimant's original narrative states that she fled Cameroon to Canada on XXXX XXXX, 2017, after escaping from the authorities on May 15, 2017. She states that she had been arrested and detained by the police on the basis of her actual or perceived political affiliation with the Southern Cameroon National Council (SCNC) on October 1, 2016.

[29] However, after the Minister gave notice on May 17, 2019 of their intention to intervene in the claim and provided additional evidence material to the claimant's identity and date of entry to Canada, the claimant revised her narrative.

[30] The information provided by the Minister on May 17, 2019 includes evidence that there are no records of any attempts to enter Canada by anyone using the name XXXX XXXX XXXX XXXX during the period in question (2016 to 2018). Additionally, the information includes a copy of the passport biodata page of a woman named XXXX XXXX, a citizen of Cameroon with a date of birth of XXXX XXXX XXXX 1949; XXXX XXXX traveller history record showing that she entered Canada using a passport on XXXX XXXX, 2016; extracts from XXXX XXXX Canadian visa application from 2016; as well as various file photos and social media posts.

[31] On May 23, 2019 the claimant disclosed a revised narrative stating that the key events that led her to flee Cameroon actually occurred exactly one year earlier than she originally alleged. For example, she was actually arrested on October 1, 2015, not 2016, escaped a subsequent arrest attempt on May 15, 2016, not 2017, and left Cameroon for Canada on XXXX XXXX XXXX 2016, not 2017. According to the claimant's revised narrative, she entered Canada in 2016, one year earlier than she originally alleged. She explained that she used XXXX XXXX identity card in order to obtain a fraudulent Cameroon passport containing her photograph. Then she used XXXX XXXX visitor visa to travel to Canada.

[32] However, I find that these explanations constitute attempts by the claimant to deceive the panel with respect to her true identity and other core allegations. The claimant did not have a reasonable explanation for misrepresenting the alleged true timeline of events in Cameroon or the date of her entry into Canada, or for omitting the alleged facts of how she left her country. Nor was she able to adequately explain why she did not promptly claim asylum in Canada after arriving in 2016.

[33] The claimant allegedly went to elaborate lengths to disguise her date and method of entry into Canada from the Immigration and Refugee Board (IRB). The revised years and dates that she has provided in her narrative from May 23, 2019 are inconsistent with most of her supporting documents, including purported letters from the SCNC, Human Rights Defence Group, various other individuals, as well as a medical report. These documents describe the key events in her narrative as taking place along the timeline she provided in her original BOC form.

[34] When asked why her supporting documents universally state that key events such as her alleged arrest and assault by police officers took place a year after the claimant says they actually happened, she testified that the original letters contain the correct dates and are located in the “office”. The agent who helped her travel to Canada tampered with the documents and changed all the dates, in order to disguise the true date of her entry into Canada.

[35] When asked why she misrepresented her true date of entry into Canada and failed to claim asylum immediately, she replied that she was afraid that Canadian authorities would send her back home because she used a false passport. She also said that she was unable to prepare her claim until she found someone who spoke her language.

[36] I do not accept these explanations. Firstly, although there is some support in case law for the proposition that claimants may be reticent to disclose everything to their first point of contact in Canada out of fear, all relevant and important facts should nevertheless be included in the BOC.⁶ Moreover, in this case, the claimant made no effort to conceal the fact that she had used someone else’s identity to travel to Canada when she first made her refugee claim. Therefore, the notion that she went to such extensive lengths, including having most of her supporting documents altered, to conceal this fact does not hold water. The claimant does not have a reasonable explanation for attempting to deceive the Refugee Protection Division (RPD) about key events in her claim.

[37] Secondly, using a false identity to enter Canada is, if anything, another reason to promptly seek asylum, given that she would have likely seen her status in Canada as all the more precarious. The claimant alleges that she used XXXX XXXX identity documents because it was the most expedient way to flee Cameroon and seek protection in Canada. Despite this, she did not claim asylum until nearly two years after her arrival. In addition to undermining her allegation of subjective fear, this raises doubts about whether XXXX XXXX is in fact a false identity.

[38] Thirdly, the claimant testified that she has lived with XXXX XXXX, whom she identifies as her cousin and the son of XXXX XXXX, since her arrival in Canada. Mr. XXXX has provided a statutory declaration for the purposes of the claimant's refugee application and understands English, as evidenced by his statement. The claimant is able to communicate with Mr. XXXX, including in Pidgin, the language of interpretation at the RPD hearing. Although the claimant's relationship with Mr. XXXX has apparently soured, the claimant likely could have filed her asylum claim promptly with the help of Mr. XXXX.

[39] These issues undermine the claimant's allegations about her identity, other core allegations, and her overall credibility.

[40] Additionally, the claimant provided contradictory testimony about basic facts relating to her family composition and relationships. When these contradictions were put to her, her explanations were not straightforward, and became increasingly convoluted and incoherent. The claimant appeared to be confused or unsure about basic details about her family.

[41] The claimant provided inconsistent testimony about the number of children that her parents had, and did not know the age difference between herself and any of her siblings. For example, when asked the difference in age between herself and her younger sisters, she guessed, providing an answer that is about 10 years off the mark.

[42] The claimant could not explain these discrepancies and her lack of knowledge of the relative ages of her siblings, or said that she was confusing herself with XXXX XXXX, given that there had been discussion of her previously.

[43] I do not accept this explanation. The questions that I put to the claimant were clearly about her parents and siblings, and not about XXXX XXXX XXXX. There was no indication of a misunderstanding or misinterpretation during the hearing, and the claimant was unable to explain why she would confuse herself with XXXX XXXX in this context.

[44] Moreover, the claimant's account of her own parentage was not straightforward and contained contradictions.

[45] The claimant identified her mother as XXXX XXXX XXXX XXXX XXXX and said that she should be around 74 years old as she was born in 1945. A short while later, the claimant testified that her biological mother was actually born in 1942 but had passed away. She said that XXXX XXXX XXXX XXXX XXXX, the woman who subsequently took care of her from the age of six or seven years old, was born in 1945. The claimant's BOC states that her mother (XXXX) is still living.

[46] When I put this contradiction to the claimant, she said that she still considered her biological mother (XXXX) to be her mother. I do not accept this explanation. I note that the claimant identified her spouse as deceased on her BOC form, suggesting that she was aware of the instructions on the BOC form to state if a family member is dead. Additionally, the claimant provided two subsequent amendments to her narrative, including reporting on the death of her father, without making this change. Finally, she did not make any further revisions to her BOC form despite being given an opportunity to do so at the beginning of the hearing.

[47] Furthermore, despite allegedly being related to and intimately acquainted with XXXX XXXX XXXX the claimant was unable to provide a straightforward account of how they are related. The claimant testified that XXXX XXXX is her Aunt. Eventually, she explained that XXXX XXXX is the sister of both her late mother XXXX and guardian XXXX. However, the claimant had initially been unable to identify any of XXXX XXXX sisters, explaining that she is not close to any of them. The claimant did not have a reasonable explanation for this contradiction, stating that she was not aware that I was asking about the entire family.

[48] Although the claimant was able to identify the names of her alleged children, she was unable to provide any information about how long she was in a relationship with the father of her children, or when the relationship began, despite the fact that they allegedly have four children together, born over the span of over seven years, and co-habited for the entire duration of this time period.

[49] I draw a negative inference from these contradictions, inconsistencies, omissions, and the claimant's sometimes incomprehensible testimony about her family, issues that go to the core of the question of her identity.

[50] I note that there is no credible evidence that the claimant had been separated from her family members, for example, in her childhood. On the contrary, the claimant indicated that they all lived together in the same compound, or otherwise resided in close proximity to one another.

[51] Counsel submits that at least some of these apparent credibility problems can be explained by cultural differences. I accept that cultural factors may reasonably account for some minor discrepancies, such as the fact that the claimant incorrectly identified her age as 51 (she is 50 according to her BOC form), however they cannot reasonably explain the numerous significant credibility problems identified above. For example, whether or not the claimant has a different cultural understanding of "sister" (that includes half-sisters and cousins de facto adopted as sisters), she should be able to provide a consistent and coherent account of the composition of her immediate family.

[52] The claimant provided copies of two purported official identity documents, namely her Cameroon National Identity Card (NIC) and birth certificate,⁷ which she alleges are genuine and were properly and legally obtained. However, there are discrepancies between some key information on her birth certificate and her testimony. After considering the available objective evidence about identity documents in Cameroon, and in view of other serious credibility problems in this claim, explained above and below, I find that these documents are insufficient to establish her identity.

[53] The objective evidence establishes that NIC fraud in Cameroon is a serious problem. For example, according to a source quoted in the IRB's Response to Information Request (RIR) titled "Cameroon: information on fraudulent identity document, including national identity cards (2007-March 2014)"

[i]dentity card fraud is commonplace in Cameroon. Those who are engaged in illegal practices are always in possession of more than one NIC [national identity card]. This is possible as the biometric system in Cameroon is not very effective, taking into consideration the fact that such technology in Cameroon is still backward. Some of these NICs are forged by highly skilled professional forgers for purposes of crime.⁸

[54] According to another source quoted by the RIR, "the prevalence of ID fraud "is due more to the relatively corrupt nature of ... society than [to] the ID process itself". The RIR documents reported cases of fraudulent identity cards or authentic cards obtained through fraudulent means.

[55] Counsel submits that the authenticity of the claimant's NIC is reinforced by the fact that the NIC contains her photo and the Minister has disclosed evidence that her fingerprints taken by Immigration, Refugees and Citizenship Canada (IRCC) in Canada match her thumbprint on the NIC. He also submits that the card was purportedly issued in 2012. However, I find that this is not determinative. The claimant's allegedly fraudulent passport in the name of XXXX XXXX also contains her photo, and the country documents show that NIC fraud through skilled forgery and corruption is commonplace in Cameroon.

[56] The Minister submits that a negative inference should be drawn from the fact that the claimant's signature on her NIC does not match the signature on her IRCC forms. However, I find that this is inconclusive, as there are other plausible explanations for the claimant's inconsistent signature that do not undermine her credibility.

[57] The claimant's birth certificate contains a contradiction relative to her original BOC and amended narrative. The birth certificate states that her father is deceased, however the document was purportedly issued before she made her refugee claim, when the claimant alleges her father was still living. According to the claimant's amended narrative, her father was killed in May 2019 by government forces when they attacked her village. The claimant was unable to provide a reasonable explanation for this discrepancy, speculating that it was an error on the part of the persons who produced the document.

[58] Where the Division is satisfied that one or more of an applicant's identity documents have been fraudulently obtained or are otherwise authentic, the presumption that the applicant's remaining identity documents are valid can no longer be maintained. Notwithstanding, the Division is still required to at least consider and assess the authenticity and probative value of each of those documents, as well as any other supporting documents submitted by the claimant.⁹

[59] The claimant has testified that she obtained a fraudulent passport in the name of XXXX XXXX in order to travel to Canada. She did not disclose the identity under which she had traveled to Canada until a copy of the biodata page of the passport was presented by the Minister. When confronted with the disclosure from the Minister, the claimant testified that her agent tampered with most of her supporting documents, including letters from human rights groups in Cameroon, a medical note, and personal letters from friends, in order to conceal her true date of entry into Canada from the RPD. Her birth certificate contains information that is inaccurate and she could not reasonably explain this.

[60] In view of the above, I find that the presumption that the claimant's identity documents are valid cannot be maintained, and that there is insufficient credible evidence to establish her identity as XXXX XXXX XXXX XXXX on a balance of probabilities.

[61] While counsel submits that the claimant's marriage certificate, death certificate of her husband, and her children's birth certificates all further corroborate her identity, I assign little weight to these documents as evidence of identity. They are not primary identity documents for the claimant, and even if they are genuine, they merely corroborate the family relationships of someone with the claimant's purported name. They do little to establish that the claimant is XXXX XXXX XXXX XXXX, an allegation that I find the claimant has been unable to substantiate through her testimony and documentation.

[62] I have considered the claimant's other supporting documents. Most of these documents have been tampered with, according to the claimant. They are not identity documents. I do not assign any weight to these documents as evidence of the claimant's identity.

[63] On May 27, 2019, two days before the RPD hearing of May 29, 2019, the claimant requested to call five witnesses at her hearing. I refused this application, and provided my reasons orally at the beginning of the hearing.

[64] I accept counsel's post-hearing disclosure of a medical note, however I give little weight to this document. The letter does not provide a definitive medical diagnosis, stating that the claimant has "possible PTSD; post-traumatic stress disorder, anxiety and depression." Moreover, no medical information is provided that may be relevant to the question of determining her identity or assessing her testimony. Otherwise, the letter merely repeats in general terms the claimant's principle allegations concerning alleged events in Cameroon.

[65] The claimant physically collapsed at the end of the hearing, after all parties present had finished asking their questions. First responders arrived and revived the claimant. According to the medical note provided in post-hearing disclosure, the claimant was rushed to Emergency and was discharged later the same day. Although I accept that the claimant suffered a medical event at the end of the hearing, there is no credible evidence before me that this impacted her prior testimony.

[66] For the reasons provided above, I find that there is insufficient credible evidence to establish the claimant's identity as XXXX XXXX XXXX XXXX, a citizen of Cameroon with a date of birth of XXXX XXXX XXXX, 1968. For the purposes of this analysis, it is not necessary for me to determine whether or not the claimant is actually XXXX XXXX XXXX as the Minister contends.

Manifestly Unfounded Claim

[67] The Minister submits that the claim should be determined to be manifestly unfounded under Section 107.1 of the IRPA.

[68] The threshold for a finding that a claim is “manifestly unfounded” is high. There must be evidence that the claim is clearly fraudulent. The dishonesty, deceit, or falsehood must relate to an “important part of the refugee claim... such that the determination of the claim would be influenced in a material way.”¹⁰

[69] I find that the high threshold for a “manifestly unfounded” claim is met in this case. The claimant has disclosed documents and made allegations that she knows are false with the intention of deceiving the RPD about material facts, such as the date of her entry into Canada, and the date of her alleged arrest in Cameroon. When confronted with information disclosed by the Minister, she provided new or revised allegations that lacked credibility. The false or misleading misrepresentations in this claim permeate the claim and relate to not only her identity but her allegations of persecution in Cameroon.

CONCLUSION

[70] Therefore, having considered all of the evidence before me, I determine that there is not a serious possibility that the claimant would be persecuted in Cameroon.

[71] Section 97(1) of the IRPA defines a “person in need of protection”. The elements necessary to establish a claim under section 97(1) are not identical to those necessary to establish whether a person is a Convention refugee under section 96 of the IRPA.

[72] Consequently, a “... negative credibility determination, which may be determinative of a refugee claim under s. 96 of the IRPA, is not necessarily determinative of a claim under subsection 97(1) of the IRPA.”¹¹

[73] In the case at hand there is not sufficient evidence that would provide a foundation, on the balance of probabilities for establishing a personal “risk” for the claimant pursuant to section 97(1) of the IRPA.

[74] For these reasons I determine that the claimant is neither a Convention refugee nor a person in need of protection.

[75] Furthermore, I am of the opinion that this claim is clearly fraudulent and therefore manifestly unfounded pursuant to Section 107.1 of the IRPA.

(signed) “Chad Prowse”
Chad Prowse
August 12, 2019
Date

¹ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

² Exhibit 2.

³ *Refugee Protection Division Rules*, SOR/2012-256.

⁴ *Maldonado v. Canada (Minister of Employment and Immigration)*, [1980] 2 F.C. 302 (C.A.).

⁵ *Shahamati, Hasan v. M.E.I.* (F.C.A., no. A-388-92), Pratte, Hugessen, McDonald, March 24, 1994.

⁶ *Tsybalyuk v. Canada (Citizenship and Immigration)*, 2007 FC 1306.

⁷ Exhibit 1.

⁸ Exhibit 3, National Documentation Package, Cameroon, 31 May 2019, tab 3.1: Information on fraudulent identity documents, including national identity cards (2007-March 2014). Immigration and Refugee Board of Canada. 11 April 2014. CMR104811.E.

⁹ *Teweldebrhan, Paulos Petros v MCI*, IMM-790-14.

¹⁰ *Warsame v. Canada (Minister of Citizenship and Immigration)* 2016 FC 596 at paras. 23 – 30.

¹¹ *Riadh Ben Bouaouni v. MCI*; IMM-5570-02.