



RPD File No. / N° de dossier de la SPR : MB7-14011
MB7-16351 MB7-16363

Client ID No. / N° ID client : XXXX XXXXXXXXXX XXXX

Private Proceeding / Huis clos

Reasons and Decision – Motifs et décision

Claimant(s)

Demandeur(e)(s) d'asile

XXXX XXXX XXXXXXXXXX XXXX XXXX
XXXXXXXX XXXX XXXX

Date(s) of hearing

Date(s) de l'audience

March 25, 2019

Place of hearing

Lieu de l'audience

Montréal, Quebec

Date of decision
and reasons

Date de la décision
et des motifs

April 25, 2019

Panel

Tribunal

Sarah Côté

Counsel for the claimant(s)

Conseil(s) du (de la/des)
demandeur(e)(s) d'asile

Jessica Lipes

Designated representative

Représentant(e) désigné(e)

XXXX XXXX

Counsel for the Minister

Conseil du (de la) ministre

Alexandre Lampron

REASONS FOR DECISION

6

[1] XXXX XXXX (the principal claimant) and her daughters, XXXX XXXX XXXX and XXXX XXXX XXXX (the co-claimants), allege that they are citizens of Rwanda. They are claiming refugee protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*.

ALLEGATIONS

[2] In their Basis of Claim Forms (BOC Forms),¹ the claimants allege that they fear the Rwandan authorities because of their real and imputed political opinion. In 2017, the principal claimant supported XXXX XXXX candidacy by collecting signatures for her political nomination. The principal claimant, her husband and two oldest daughters all signed to support Ms. XXXX. The principal claimant then received anonymous telephone threats because of this political involvement. On XXXX XXXX XXXX 2017, the principal claimant was summoned by the police and interrogated about Ms. XXXX and her ties to opposition members of the Rwanda National Congress (RNC) in the Rwandan diaspora. On XXXX XXXX XXXX 2017, the principal claimant was arrested at her home by the police, detained for XXXX days and interrogated, mistreated and sexually assaulted by police officers. She was provisionally released on XXXX XXXX, 2017. She left the country on XXXX XXXX XXXX 2017, and claimed refugee protection in Canada upon her arrival at the airport. Her eldest daughter, XXXX, was studying in Canada at the time and claimed refugee protection on September 23, 2017, at the Saint-Bernard-de-Lacolle border office along with her younger sister, XXXX XXXX, who had been studying in the United States since XXXX XXXX, 2017. They state that if they were to return to Rwanda they would be threatened, arrested and killed because of their real and imputed political opinion. After the principal claimant left Rwanda, her husband was summoned by the police and interrogated about his political ties, and the authorities seized his passport.

¹ Documents 2.1, 2.2, 2.3: Basis of Claim Forms (BOC Forms) for MB7-14011, MB7-16351, MB7-16363.

ANALYSIS

[3] In rendering its decision and conducting the hearing, the panel considered the Chairperson's Guidelines, specifically *Guideline 8: Procedures with Respect to Vulnerable Persons Appearing Before the IRB*² and *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*.³

[4] The principal claimant was declared a vulnerable person because of her fragile state of mind, and her counsel requested that the order of questioning be reversed to make it easier for her to testify. The panel agreed to this request and this procedural adaptation was put in place during the hearing.

[5] On November 19, 2018, the Minister's counsel, representing the Minister of Public Safety and Emergency Preparedness, indicated that he intended to intervene on the issue of the claimants' credibility, submitting additional evidence and attending the hearing. The Minister's counsel did not attend the March 25, 2019, hearing and has not submitted additional evidence into the record. He was sent a notice to appear on December 14, 2018. In light of this, and having received no additional information from the Minister's counsel, the panel proceeded with the hearing of this case in his absence.

[6] The determinative issue in this case is the claimants' credibility.

[7] The panel concludes that the claimants have failed to establish that they would face a serious possibility of persecution on one of the Convention grounds or that, on a balance of probabilities, they would be personally subjected to a danger of torture, a risk to their lives or a risk of cruel and unusual treatment or punishment.

² Chairperson's *Guideline 8: Procedures with Respect to Vulnerable Persons Appearing before the IRB*, Immigration and Refugee Board of Canada (IRB). Effective: December 15, 2006.

³ Chairperson's *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*, IRB. Effective: November 13, 1996.

Identity

[8] The claimants' identities as citizens of Rwanda were established by means of copies of their passports.⁴ The originals remain with the Canada Border Services Agency.

Credibility

[9] In *Maldonado*,⁵ the Federal Court held that when a refugee protection claimant swears that certain allegations are true, there is a presumption that they are true unless there is reason to doubt their truthfulness.

[10] At the hearing, the panel noted several significant problems with the claimants' credibility and therefore does not believe the claimants' allegations that, by reason of their real or imputed political opinion, they would be targeted by the Rwandan authorities.

Decision to grant the provisional release of the principal claimant

[11] To support their allegations, the claimants submitted the decision⁶ to grant a provisional release order for XXXX XXXX, issued by the National Public Prosecution Authority of Rwanda. The panel noted several discrepancies in this document, in particular the following:

- a. The letterhead is in English, French and Kinyarwanda, the official languages, but the information provided in each language is not the same.
- b. The mailing address, email and website in the document's letterhead are in English only, whereas the document is drafted in French.
- c. There are many spelling, grammar and syntax errors, even though the document is drafted in French, which is one of Rwanda's official languages.
- d. The preprinted text in the heading is "Déision" instead of "Décision".
- e. The space for the decision number has been blacked out several times and the document does not have a number.
- f. The document states that [translation] "the circumstances established by the police record of the accused require that she be released under certain conditions," whereas farther down in the document, it says that the

⁴ Document 1: Information package provided by the Canada Border Services Agency (CBSA) or Immigration, Refugees and Citizenship Canada (IRCC).

⁵ *Maldonado v. M.E.I.*, [1980] 2 F.C. 302 (C.A.).

⁶ Exhibit P-4: Decision granting the provisional release of XXXX (XXXX-XXXX-2017).

applicant is being released [translation] “without conditions”, which is an inconsistency in the document.

[12] When asked about the many spelling mistakes in this document, which seem inconsistent with the quality expected of an official document issued by Rwandan authorities, the principal claimant stated that it was because of the secretaries, who were not qualified, and perhaps because the document was in French. She explained that the lawyer she spoke to when she was released confirmed that these documents often stated without conditions. Given the numerous significant discrepancies in these documents, even in the preprinted text, and the fact that one of Rwanda’s official languages is French,⁷ the panel does not consider the principal claimant’s explanation to be reasonable and concludes that, on its face, this document was obtained fraudulently. Consequently, the panel gives no probative value to this document in support of the claimants’ allegations and draws a significant negative inference regarding the credibility of the principal claimant, who alleges that she was detained for XXXX days by the police because of her political opinion.

Summonses of the principal claimant and her husband

[13] The claimants submitted two police summonses in support of their claims. The first⁸ is addressed to the principal claimant, XXXX XXXX, and is dated XXXX XXXX, 2017; the second⁹ is addressed to her husband, XXXX XXXX, and is dated XXXX XXXX, 2019. The panel notes that these summonses were both issued pursuant to the [translation] “act respecting the penal process,” according to the French translation, but that the date of ratification and the number of this statute is different on the two summonses, which is a significant discrepancy in documents that were issued during the same period. When the panel asked the claimant about this contradiction, she stated that she did not know, but that it could be due to the fact that she was summoned to a different location. Given that the principal claimant gave a speculative explanation for this significant contradiction, and in light of the panel’s previous conclusion that the claimants provided what is clearly a false provisional release document, the panel assigns no probative value

⁷ Document 3: National Documentation Package on Rwanda (March 29, 2019), Tab 1.3: *Rwanda. The World Factbook*, United States, Central Intelligence Agency, November 16, 2018.

⁸ Exhibit P-5: Summons for XXXX.

⁹ Exhibit P-6: Summons for XXXX.

to these summonses provided in support of the allegation that the principal claimant and her husband were summoned by the police because of their political opinion.

Medical Report

[14] To support their allegations, the claimants submitted a medical report dated XXXX XXXX, 2019, issued by the XXXX XXXX XXXX [XXXX XXXX XXXX] in Kigali. When asked by her counsel what treatment she received at the hospital, the claimant stated that she had XXXX XXXX XXXX XXXX, and that she had XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX. Later in the hearing, when explaining why she had been granted a provisional release, she stated that she had explained her medical condition to the judge and that the judge could see that she was quite ill and that she was showing signs of infection. The panel asked her what signs of infection she was showing when she was released, and she stated that she XXXX XXXX XXXX XXXX XXXX XXXX XXXX. The hospital gave her antibiotics for that reason. The panel informed the claimant that her medical report did not mention signs of infection. She replied that she had XXXX XXXX XXXX XXXX XXXX XXXX and that she had heard them mention infection at the hospital, but that they did not tell her anything. The panel concludes that the principal claimant's explanations about her medical report are not reasonable or credible for the following reasons:

- a. The claimant's testimony about the treatment she received at the hospital evolved as the panel questioned her. She initially stated that she was given only serum, a blood transfusion and stitches, and later stated that she was treated with antibiotics for a serious infection and that she was released in particular because she was showing signs of infection.
- b. The claimant did not explain why her medical report does not indicate that she had a serious infection requiring antibiotics; she merely repeated her testimony that she had XXXX XXXX XXXX XXXX XXXX and that this was the reason she needed to take antibiotics.
- c. As submitted by the claimant's counsel, the medical report does mention that the claimant was treated with antibiotics. However, it does not indicate that she had a serious infection or a great deal of pain, which it would be reasonable to expect would be included in a document explaining the claimant's health condition during her hospitalization.

[15] Consequently, since the claimant's testimony does not match the information in the medical report filed in evidence, the panel gives no probative value to this document in support of the claimant's allegations. Furthermore, the panel draws a negative inference as to the claimant's credibility.

Pursuit by agents of persecution

[16] At the hearing, the principal claimant stated that she was followed by vehicles from the time she was released on XXXX XXXX, 2017, until she was arrested on XXXX XXXX, 2017. When the panel asked her about these events, she stated that she was followed several times by vehicles with tinted windows and no licence plates, which are known to be police vehicles. This began about XXXX days after her release, so on or around XXXX XXXX, 2017. In addition, one of the drivers was wearing a police cap, which made it possible to identify him as a police officer. She stated that these incidents made her fear for her safety and led her to think about leaving the country. She stated that because she was being followed, she had to stop using her car. The panel asked why she had failed to mention in her BOC Form that she was being followed by the police, and the principal claimant stated that there were too many details and that she could explain when asked to do so. She added that what had the greatest impact on her was her incarceration and the harassment, and the fact that she was robbed of her humanity. Given that the claimant was represented by counsel and that she confirmed under oath at the beginning of the hearing that her BOC Form was complete, true and correct, the panel concludes that she did not provide a reasonable explanation for this significant omission, namely the allegation that the police were targeting her. Consequently, her credibility is undermined.

Incident that triggered the persecution—shopkeeper's refusal to sign

[17] At the hearing, the claimant testified that when she was collecting signatures for Ms. XXXX, only one person she approached refused to sign: a business owner in the neighbourhood who did not want to create problems for himself by signing. She stated that she suspected this business owner of having reported her to the authorities and that this was why she began receiving threats by telephone. The panel asked her why she had not included in her BOC Form the important fact that the shopkeeper had refused to sign and that she suspected him

of having reported her to the authorities. The principal claimant explained that she was not sure that he had reported her, but that she was afraid of him and the authorities who saw her signature, but that she had not gone into detail. This is important information explaining why the claimant suspected she had been brought to the attention of the authorities, and given that the claimant indicated at the beginning of the hearing that her BOC Form was complete, true and correct, the panel finds the claimant's explanation about not going into detail to be unreasonable. The panel finds that this is not a mere detail, but rather the incident that the claimant suspected triggered the persecution, and it is reasonable to expect that she would have included this important information in her BOC Form. Consequently, the claimant's credibility is undermined.

Return to Rwanda

[18] During the time she was being persecuted, the principal claimant left Rwanda for the Congo on XXXX XXXX, 2017, to obtain some soya, according to her testimony at the hearing. The panel asked her why she had returned to Rwanda if she feared for her safety. The principal claimant explained that she thought things would improve because she was still able to carry out her business activities. However, according to her testimony, on that day, the claimant was summoned by the police and harshly interrogated for an entire day; she was followed multiple times by unmarked police cars, forcing her to stop using her own vehicle; and she even stated at the hearing that she was very afraid for her safety and thought about leaving the country for her safety. The panel concludes that the claimant's explanation that she thought things would improve is not reasonable or consistent with her testimony at the hearing and the facts on the record, and that her behaviour is not consistent with that of a person who has a reasonable fear that her life is in danger. Consequently, the panel finds that the claimant's credibility is undermined.

[19] In short, the panel finds that the accumulation of contradictions, omissions and discrepancies irreparably undermines the claimant's credibility. Consequently, the panel finds the claimants generally not credible and gives no credence to any of the allegations presented in support of their refugee protection claims.

*Letter from the psychologist and nurse practitioner at the XXXX XXXX XXXX XXXX XXXX XXXX
XXXX XXXX XXXX XXXX*

[20] The claimants submitted a letter¹⁰ from the principal claimant's psychologist and a letter from a nurse practitioner at the XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX [XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX] indicating that Ms. XXXX had been undergoing treatment for XXXX XXXX arising from the events that occurred in Rwanda. In addition, the nurse practitioner's letter indicates that the principal claimant XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX. These reports are based on the allegations in their BOC Forms and reported to these professionals by the principal claimant. Therefore, these reports are of little probative value in terms of establishing whether or not the allegations are true.

Other documents

[21] The claimants submitted other evidence¹¹ in support of their claims, including school documents, the principal claimant's business documents, a photograph of a T-shirt showing an image of Ms. XXXX, an invoice for the production of these T-shirts, and a statement from XXXX XXXX. The panel concludes that this evidence has little probative value in terms of establishing the claimants' allegations, on a balance of probabilities, given the multiple credibility problems noted during the principal claimant's testimony.

CONCLUSION

[22] After analyzing all the evidence, the panel concludes that the claimants have not discharged their burden of establishing that they would face a serious possibility of persecution on one of the Convention grounds. They have also failed to demonstrate, on a balance of probabilities, that they would be personally subjected to a danger of torture, to a risk to their lives or to a risk of cruel and unusual treatment or punishment if they returned to Nigeria.

¹⁰ Exhibit P-11: Document from XXXX, psychologist; P-12: Letter from XXXX, XXXX.

¹¹ Exhibit P-1: XXXX diploma, P-2: Invitation from XXXX, P-13: Certificate of Domestic Company Registration RDB, P-14: Invoice for XXXX Office Equipment, P-15: Photograph of Ms. XXXX with XXXX T-Shirt, P-17: Declaration from XXXX.

[23] For these reasons, the panel determines that the claimants are not “Convention refugees” or “persons in need of protection” and rejects their refugee protection claims.

Sarah Côté

Sarah Côté

April 29, 2019

Date

IRB translation

Original language: French