



RPD File No. / N° de dossier de la SPR : MB8-24936
UCI / IUC : XXXX

Private Proceeding / Huis clos

Reasons and Decision – Motifs et décision

Claimant(s)	XXXX XXXX XXXX	Demandeur(e)(s) d'asile
Date(s) of hearing	January 20, 2021	Date(s) de l'audience
Place of hearing	Hearing held virtually	Lieu de l'audience
Date of decision and reasons	February 12, 2021	Date de la décision et des motifs
Panel	Djiby Salif Kane	Tribunal
Counsel for the claimant(s)	M ^e Nandiath Folakè Ficara	Conseil(s) du (de la/des) demandeur(e)(s) d'asile
Designated representative	N/A	Représentant(e) désigné(e)
Counsel for the Minister	N/A	Conseil du (de la) ministre

REASONS FOR DECISION

[1] **XXXX XXXX XXXX**, a citizen of Côte d'Ivoire, is claiming refugee protection under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (IRPA).

DETERMINATION

[2] The panel determines that the claimant failed to establish a serious possibility of persecution on a Convention ground or that, on the balance of probabilities, he would be personally subjected to a danger of torture, to a risk to his life or to a risk of cruel and unusual treatment or punishment if he were to return to his country.

[3] The panel concludes that the claimant was unable to establish the merits of his allegations on a balance of probabilities. The panel is of the opinion that the allegations in question are not credible.

ALLEGATIONS

[4] The claimant fears **XXXX XXXX**, **XXXX XXXX XXXX** and their henchmen, who are threatening to kill him and the members of his family because of a land dispute between them.

IDENTITY

[5] The claimant's identity was established, on the balance of probabilities, through a copy of his passport filed into evidence.¹

ANALYSIS

[6] The claimant did not refer to section 96 or paragraph 97(1)(a) of the IRPA, and the evidence on the record does not engage their application. Consequently, the panel will analyze the refugee protection claim only under paragraph 97(1)(b) of the IRPA.

¹ Document 1 – Information on referrals to the Canada Border Services Agency (CBSA)/Immigration, Refugee and Citizenship Canada (IRCC).

[7] The determinative issue is credibility.

CREDIBILITY

[8] The claimant's testimony raised a number of contradictions and omissions that seriously undermine his credibility.

Contradictions

[9] The claimant testified in his written account and at the hearing that he returned to XXXX in late XXXX 2017 to take care of the XXXX—the area of dispute—himself. He subsequently was threatened and attacked by his agents of harm. Yet this contradicts the information provided by the claimant in his IMM 5669 form, namely, that he worked as a XXXX XXXX in Abidjan from XXXX 2006 to XXXX 2018.² The claimant also stated at the hearing that he had received his last pay in late XXXX 2018. When asked about this contradiction, the claimant asserted the following:

- His XXXX 2018 pay was in fact only the payment for his fees, which requires a certain amount of time after the stoppage of work;
- The wording on form IMM 5669 was an error due to stress, fear and the fact that he wanted to include the same information that Mr. XXXX had included in his visa application.

[10] The panel cannot accept to such an explanation, in that the claimant reiterated at the beginning of the hearing that his Basis of Claim Form (BOC Form) was complete, true and correct. In addition, the claimant testified at the hearing that he knew nothing about the visa application process completed by Mr. XXXX from beginning to end. The claimant even claimed that he did not know his destination. Under these conditions, it was unreasonable for the claimant to know the information provided by Mr. XXXX in the visa application.

[11] In light of the foregoing, the panel does not believe, on a balance of probabilities, that the claimant was in XXXX during the alleged period but instead believes that he was in Abidjan. The

² *Idem.*

panel draws a negative inference regarding the claimant's overall credibility from this contradiction.

[12] The claimant then asserted that he left XXXX, where he had hidden out after an attack dated XXXX XXXX XXXX 2017, to seek refuge in Abidjan, when his mother warned him that there was a price on his head. Yet the claimant did not leave XXXX until XXXX XXXX, whereas his mother had informed him as early as XXXX XXXX XXXX 2017. The panel asked him to explain this contradiction, as such an attitude is inconsistent with a state of fear. The claimant's response was that he had been waiting all this time because he did not know where to go and had to wait for the approval of his father's friend to go to Abidjan.

[13] The panel rejects that explanation, as the record shows that the claimant lived, studied and worked in Abidjan for many years. It would be unreasonable to claim that the did not know where to go or that he was waiting for his father's friend's approval to go to Abidjan, a city he was already quite familiar with. As a result of this contradiction, the panel does not believe, on a balance of probabilities, that there is a price on the claimant's head, and draws a negative inference as to the claimant's overall credibility.

[14] The claimant also stated that he went in to hiding in Abidjan with Mr. XXXX, his father's friend, from XXXX XXXX to XXXX XXXX XXXX 2018. Yet the claimant's passport shows a trip to the United Arab Emirates from XXXX XXXX to XXXX XXXX XXXX 2018.

[15] When asked to explain this contradiction, the claimant maintained that he had hidden in Mr. XXXX home during this time and that he knew nothing of this trip, as his passport was in Mr. XXXX hands.

[16] The panel rejects the claimant's explanation, as he testified at the hearing that he saw Mr. XXXX for the first time on XXXX XXXX, 2018. Therefore, it is unreasonable that Mr. XXXX could have travelled with the claimant's passport between XXXX and XXXX 2018 when he did not know the claimant at that time. Therefore, the panel does not believe, on a balance of probabilities, that the claimant was in hiding at that time, and draws a negative inference about the claimant's overall credibility from that contradiction.

[17] The panel also pointed out to the claimant that his passport was produced on XXXX XXXX, 2018, in Abidjan. Yet the claimant testified that he had been in hiding in Abidjan and that he did not leave Mr. XXXX house. Asked about how he could have applied for and picked up the passport, which clearly contradicts his statement, the claimant submitted that he had filed his passport application through a contact in Abidjan while he himself was in XXXX, and was able to pick up the passport through Mr. XXXX.

[18] The panel cannot accept such an explanation, for the following reason:

[19] Beyond the panel's serious reservations about the passport application and pick-up process as recounted by the claimant, the panel again cannot believe that Mr. XXXX could have picked up the claimant's passport, when he did not even know him at the time and had never met him.

[20] Therefore, the panel reiterates that it does not believe, on a balance of probabilities, the allegation that the claimant went into hiding in Abidjan between XXXX XXXX and XXXX XXXX XXXX 2018. This noted contradiction undermines the claimant's overall credibility.

Omissions

[21] In addition to the contradictions noted above, the claimant's testimony also contained some material omissions.

[22] The claimant stated from the beginning of the hearing that he had received several threats from XXXX XXXX and XXXX XXXX XXXX, who also threatened his mother, his spouse and his brother four or five times, between XXXX and XXXX 2017.

[23] Yet the threats against his family members are not mentioned in the claimant's BOC Form or the accompanying written account. When asked to explain this omission, the claimant stated that he only provided the facts that concern him personally.

[24] The panel cannot, on a balance of probabilities, accept such an explanation, as the claimant nevertheless referred in his BOC Form to the rape of his spouse and the abuse suffered by his mother and brother. In the circumstances, it would be reasonable to expect the claimant to mention the threats his family members received at a sustained frequency and over a fairly long period of

time. The panel rejects the claimant's explanation and draws a negative inference as to his overall credibility from this omission.

[25] The panel also considered the failure to mention the trip to the United Arab Emirates from XXXX XXXX to XXXX XXXX XXXX 2018, indicated by stamps in the claimant's passport. The claimant made no reference to this trip in his BOC Form.

[26] When asked to explain this omission, the claimant reiterated that he knew nothing about this trip, which was apparently organized by Mr. XXXX, who was taking care of his visa application for Canada.

[27] The panel submits that it cannot accept such an explanation, given that the claimant's meeting with Mr. XXXX did not occur until XXXX 2018. Therefore, the panel does not believe, on a balance of probabilities, the allegation that the claimant knew nothing about the trip to the United Arab Emirates, and this omission seriously undermines the claimant's overall credibility.

[28] For all these reasons, the panel concludes that the claimant did not establish the merits of his allegations on a balance of probabilities. The panel is of the opinion that the claimant is not credible.

ALTERNATIVE ANALYSIS ON THE PROSPECTIVE RISK

[29] In addition to the above, the panel is of the opinion that, alternatively, it would be reasonable, according to the case law in *Sanchez*,³ to expect the claimant to give up the plantation in order to protect his life. In fact, the claimant testified that, as long as his life and the lives of his family members are in danger, he would not take any steps to get the plantation back.

[30] The claimant has always worked in a different field and only became interested in plantations when his father died, and still he hired people to take care of this when he himself was in Abidjan as part of his job as a sales engineer. Aside from the claimant, none of his family

³ See *Sanchez, Luis Miguel Trujillo v. M.C.I.* (F.C.A. No. A-310-06), Richard, Sharlow, Malone, March 8, 2007, 2007 FCA 99, at paras. 16 to 20, available at <https://decisions.fca-caf.gc.ca/fca-caf/decisions/en/item/35507/index.do>.

members worked on the plantation. It is therefore reasonable to expect that the claimant would have given up the plantation, as long as it was neither “fundamental to the preservation of his core human rights, nor was it essential to his right to earn a living generally.”⁴

CONCLUSION

[31] For these reasons, the panel concludes that the claimant is neither a “Convention refugee” within the meaning of section 96 of the IRPA nor a “person in need of protection” within the meaning of subsection 97(1) of the IRPA.

[32] Accordingly, the panel rejects **XXXX XXXX XXXX** refugee protection claim.

Djiby Salif Kane

Djiby Salif Kane

February 12, 2021

IRB translation

Original language: French

⁴ *Sanchez, Luis Miguel Trujillo v. M.C.I.* (F.C., No. IMM-3818-05), Barnes, May 16, 2006, 2006 FC 604; *Sanchez, Luis Miguel Trujillo v. M.C.I.* (F.C., No. IMM-3818-05), Scott, June 12, 2006, 2006 FC 732.