

Sample No. 1

RECORD OF PROCEEDINGS OF A HEARING
REFUGEE PROTECTION DIVISION
IMMIGRATION AND REFUGEE BOARD

HELD IN MONTRÉAL, QUEBEC
IN THE CASE OF:

Mr. XXXXXXXXXXXXXXXX

FILE NUMBER: MA6-0000

DATE: JUNE 26, 2009

PRESENT AT THE HEARING

| | |
|-----------------------------|-----------------------|
| CORAM: | Mr. XXXX |
| REFUGEE PROTECTION OFFICER: | (Filing of documents) |
| CLAIMANT: | Mr. XXXX |
| COUNSEL: | M ^e XXXX |
| INTERPRETER: | N/A |
| DESIGNATED REPRESENTATIVE: | N/A |
| MINISTER'S COUNSEL: | (Filing of documents) |
| WITNESS: | N/A |
| OBSERVER: | N/A |

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BY THE PRESIDING MEMBER (to the person concerned)

- Hello, I am Mr. XXXXX. I will be hearing your claim for refugee protection, Mr. XXXXXXXX. Your file number is MA6-00000 and, for the purposes of the recording, you are in the hearing room and you are accompanied by your counsel, Mr. XXXX.

I will ask you to rise to swear an oath before the panel. Raise your right hand.

Q. Do you solemnly swear that the testimony that you are about to deliver is the truth, the whole truth, and nothing but the truth?

- Say "I swear."

A. I swear.

- Thank you, sir. Please be seated. Your counsel will show you your Personal Information Form so that you can acknowledge that it is genuine. Go to the signature page.

A. ... Yes.

Q. Is it in fact you who signed...? Did you sign your ... Personal Information Form?

A. Yes, sir.

Q. Is that in fact your signature?

A. Yes, sir.

Q. And you have chosen to testify directly in French?

A. Yes, sir.

Q. Are you fluent enough in that language to follow the hearing and answer the questions?

A. Yes, sir.

- Okay. Exhibits have been submitted in this case, including a document submitted by the Minister's representative, Exhibit M-1, which is a passport issued by XXXX in the claimant's name, in your name, your passport that was, of which one of the photocopies was also sent by your counsel as Exhibit P-2.

EXHIBIT M-1 – PASSPORT FROM THE GABONESE REPUBLIC

There are some exhibits from the refugee protection officer on the human rights situation in XXXX, which are filed as Exhibit A-1, which are filed as Exhibit A-1, A-2 being immigration documents—that is to say documents that you have signed or discussions you have had with immigration officers when you claimed refugee protection.

EXHIBITS A-1 AND A-2 – DOCUMENTS SUBMITTED BY THE RPO

So relax during the hearing and provide precise answers to the questions you will be asked. If you do not understand a question, ask to have it repeated.

Q. What is your name, sir?

A. My name is XXXX.

Q. You are a citizen of which country?

A. Of XXXXX.

Q. Have you held any other citizenship?

A. No, sir.

Q. Where did you live before coming to Canada?

A. Before coming to Canada, I lived in XXXX, and I was born in XXXX.

Q. What was ...? When exactly did you arrive in Canada?

A. I arrived in Canada in January XXXX.

- At the beginning of January XXXX.

Q. Did you return to XXXX?

A. Yes, I returned periodically during my breaks, between XXXX, I think in XXXX and XXXX.

Q. When was the last time that you returned to XXXX?

A. It was in XXXX, during the summer of XXXX.

Q. When you say summer XXXX?

A. The month, the month of August.

Q. When you returned in XXXX, did you experience any specific problems in XXXX?

A. No, none.

Q. When did your problems start?

A. My problems started in September of the year XXXX, during the lead-up to the presidential elections to renew the mandate of the president that we have had for forty (40) years.

- In September XXXX.

A. XXXX.

Q. So what are these problems?

A. So these problems are that, in light of the elections, the presidential elections, President XXXXX and, because of my refusal, I was personally threatened.

Q. But when you say Mr. XXXX's propaganda delegation, did they contact you personally?

A. Yes, they contacted me personally.

Q. Who contacted you?

A.

EXHIBIT P-1 – ARTICLES IN A BUNDLE

So this is a relatively simple claim. Mr. XXXX is a foreign student and in XXXXX, in September, he started having problems with the people trying to get his vote. If I refer to the documentation, it seems to be, if we are talking about the XXXX election, the entire population seems totally, seems totally disengaged from the democratic electoral process in XXXX. That might be one of the reasons, and we see it in the articles, the last article in a bundle under Exhibit P-3 talks about electoral fraud. The older article, that is to say the one before the last, entitled “*Chronique d'une élection préfabriquée : Comment XXXXX prépare la fraude au XXXX et dans la diaspora*” [chronicle of a prefabricated election: how XXXX prepares fraud in XXXX and in the diaspora]. So it seems pretty difficult inside the country to convince the million and a half (1.5 M) inhabitants. So we see that the President and his family try to recruit or put added pressure on foreign students and the military vote. So it is certain that the President is assured of the military vote and with foreigners, who are, generally speaking, always considered privileged, the foreign students, so we expect these people—as thanks for the privilege of being able to study abroad—to support President XXXX.

But it seems difficult even abroad, and the pressures that are brought to bear are quite startling. On page 3 of the same document entitled “*Chronique d'une élection préfabriquée,*” like the girl XXXX XXXX, XXXX, apparently living in Bordeaux, near where the honorary consul, a Frenchwoman, had her former law office, how she went about getting in touch with the foreign students, giving them money, or blatantly trying to usurp their signature or their vote. So for us, it seems completely, a bit far-fetched, but when we get into the frame of mind that must prevail in XXXX and throughout the diaspora, it must make quite an impression on the Gabonese national.

So things go from bad to worse. It is not a situation that is going to improve. It is certain that we could say, well, it has been since XXXX; you have not had any problems since then, so you are exaggerating in your claim. We could say it, but we are dealing with a claim for refugee protection, and even if we tend to say that the problems are removed in time, the *Handbook on Procedures and Criteria for Determining Refugee Status*, specifically sections 41, and I think 43—I do not have it in front of me but, from memory, it states that the fear must be well-founded, even however under certain circumstances, like that of XXXX and we see

human rights being respected, even an exaggerated fear can be recognized. That means that, even if we say, well, that was a long time ago, you were here, or try to catch up, to go back to the fact that the claimant was privileged, the fact that he is the son of an ambassador, we have to do the exact opposite: we have to give the benefit of the doubt.

What is important in this claim is that Mr. XXXX never tried to embellish... or to embellish his story or exaggerate his hardship. He always said, when we asked him if there had been any other threats, he said no. The father was not bothered. He never tried to invent anything that seemed to be drawn from outside his experience and at no time was there ever a contradiction in his testimony. So, we have a completely credible testimony. The only thing that could hinder that claim is if, in fact, we imagine that it has been so long since he has had any problems and that he risks nothing if he returns there. But, once again, the Handbook asks us to do the exact opposite. In many places, even in section 199, but there it is talking about people who are not credible, it even says that... “untrue statements” are not cause to refuse a claimant.

So I think that we are dealing with—it’s true that he has not made any public speeches, we are not dealing with a politician, we are just dealing with someone who discovers, through his trips, he discovers the outside world and he sees that XXXX is not for him and he would like to live in freedom. So it’s a small statement, but when we put ourselves in the XXXX’s place, it’s still pretty big, and the more it progresses, I imagine, the more he will be, he will stand his ground.

There are other elements that could be taken into consideration. The fact that his, that he still has a diplomatic passport, the fact that his father, it’s true, is no longer a diplomat; but, nevertheless, it would be somewhat questionable, when he was to return, it is quite possible that he could be questioned, and we know from the documentation how questions are asked over there. The claimant referred to beatings, disappearances and a completely muzzled press. So it is even difficult for us, it seems that it is even difficult for the Research Directorate to obtain information on the human rights situation in XXXX.

BY THE PERSON CONCERNED (to the presiding member)

- Thank you, sir.

HEARING CONCLUDED

I hereby certify that this is
a true and faithful transcription
of the concluded hearing.

XXXXX, Transcriptionist
XXXXX Reg'd

January 8, 2010

Sample No. 2

Immigration and
Refugee Board
Immigration Appeal Division



Commission de l'immigration
et du statut de réfugié
Section d'appel de l'immigration

IAD File No. / N° Dossier de la SAI : MB0-0000
MB0-0001 MB0-0002 MB0-0003
MB0-0004 MB0-0005 MB0-0006

Client ID No. / N° ID Client : 5000-0001
5000-0002 5000-0003 5000-0004
5000-0005 5000-0006 5000-0005

**Reasons and Decision – Motifs et décision
Removal Order Appeal**

Appellant(s)

Appelant(s)

XXXX XXXX
XXXX XXXX
XXXX XXXX
XXXX XXXX
XXXX XXXX
XXXX XXXX
XXXX XXXX
XXXX XXXX

Respondent

Intimé

**Minister of Citizenship and Immigration
Ministre de la Citoyenneté et de l'Immigration**

Date(s) of Hearing

Date(s) de l'audience

December 17, 2013

Place of Hearing

Lieu de l'audience

Montréal, Québec

Date of decision

Date de la décision

December XX, 2012

Reasons signed on: January X, 2014

Panel

Tribunal

M^e XXXX

Appellant's Counsel

Conseil de l'appelant(s)

M^e XXXX

Minister's Counsel

Conseil de l'intimé

XXXX

Oral Reasons for Decision

[1] The following is the decision of this tribunal in file MB0-00000, XXXX XXXX, XXXX XXXX, XXXX XXXX, XXXX XXXX, XXXX XXXX and XXXX XXXX (collectively the appellants) appealed against the departure orders rendered against them on September X, XXXX, for failure to comply with their residency obligation under subsection 28(2) of the *Immigration and Refugee Protection Act*¹ (the *Act*) in that they were not physically present in Canada for a period of at least 730 days during the five-year reference period which in this case extends from September X, XXXX to September X, XXXX .

[2] All of the appellants testified in support of their appeal by way of teleconference.

[3] Having heard the testimonies of the appellants and having considered the documentary evidence in this case, Minister's counsel asked for the appeal to be dismissed.

[4] The appellants in this case did not challenge the legal validity of the departure order and having reviewed the evidence, the tribunal is satisfied that the appellants did not comply with their residency obligation and concludes that the visa officer's determination is valid in law.

[5] In assessing whether sufficient humanitarian and compassionate considerations exist so as to warrant the exercise of special relief, the tribunal has considered the non-exhaustive factors stipulated in the *Ribic*² decision and the criteria set forth in the *Chirwa*³ which established that the criteria to determine special relief should be granted for humanitarian and compassionate considerations must be taken to be those facts established by the evidence which would excite in a reasonable man living in a

¹ *Immigration and Refugee Protection Act* , S.C. (2001), chap. 27, as amended.

² *Ribic, Marida v. M.E.I.* (IAB 84-9623), D. Davey, Benedetti, Petryshyn, 20 August 1985 (See CCDJ, no 86, 14 May 1986).

³ See *Chirwa v. Canada (Minister of Manpower and Immigration)* (1970), 4 I.A.C. 338 (I.A.B.) for the proposition that "compassionate and humanitarian considerations are defined as those facts established by the evidence, which

civilized community a desire to alleviate the misfortunes of another so long as the misfortunes warrant the granting of special relief from the effects of the provisions of the *Act*.

[6] The appellants in this case obtained permanent resident status in Canada in August XXXX when the family came to Canada under the investor category. The tribunal heard testimony to the effect that the family remained in Canada for approximately seven to, let's call it, fourteen days, before returning to Lebanon where their father, XXXX XXXX, owns and operates a family business. XXXX XXXX was the principal appellant. The principal appellant has withdrawn his appeal. Consequently, this appeal concerns his wife, XXXX XXXX , and the children.

[7] The elder son, XXXX, testified that in XXXX, when they arrived in Canada, it was not easy to cope in Canada and he found Lebanon easier as he had all of his friends there. Mrs. XXXX XXXX, the matriarch of the family, testified that the family rented a one-bedroom apartment at XXXX XXXXXXXXXXXX in XXXX. Given that the family came to Canada with their father back in XXXX which makes them a family of seven people, a one-bedroom apartment is obviously insufficient to accommodate a family of that size. Consequently, the tribunal concludes that the family's intention in XXXX was not to reside permanently in Canada contrary to their pretensions.

[8] With regards to XXXX XXXX, XXXX XXXX and XXXX XXXX who were minors in XXXX, the tribunal cites the *Lai* decision⁴ which has established that parental decision do not enhance nor diminish the case of an appellant who as a minor was prevented from complying with the residency obligation. Consequently, the tribunal concludes that applying the *Lai*'s decision to the case at hand, the minor appellants XXXX XXXX, XXXX XXXX and XXXX XXXX cannot seek to enhance their claim for special relief by invoking their parents' decision taking while they were minors not to comply with their residency obligation.

⁴ would excite in a reasonable man in a civilized community a desire to relieve the misfortunes of another so long as these misfortunes warrant the granting of special relief from the effect of the provisions of the *Act*.”
Lai v. Canada (Minsiter of Citizenship and Immigration) 2006 FC 1359 (CanII).

[9] The tribunal also notes that Mrs. XXXX XXXX has never worked in Canada, nor have either of the adult children. None of the appellants were schooled in Canada. None of the appellants has effectively resided in Canada nor have they paid taxes in Canada. Once questioned at the port of entry in XXXX, the patriarch of the family threatened to withdraw his investment in Canada.

[10] The appellants to date do not appear to have any assets in Canada. Their only attachments in Canada is Mrs. XXXX XXXX's sister, the children's aunt who the tribunal notes was not present at this hearing today to support this appeal, one cousin and one uncle on the father's side. The tribunal concludes that the appellants have no establishment in Canada and there is very little attachment to Canada.

[11] In XXXX, on the other hand, they have all their immediate family members, a family home and a family business for which some of the appellants are working. The family is well established, they are financially at ease.

[12] The tribunal can see no undue hardship in the event that the appellants' permanent resident status is revoked. Having considered the facts in this particular case, the tribunal concludes that to allow the appellants' claim for special relief in this case would lead to an unfair outcome. Permanent residency in Canada confers benefits but also entails the corollary obligation to respect residency requirements. Unfortunately, in this case, the appellants have failed to comply with such requirements.

[13] It is clear from the evidence that the patriarch of the family chose to abandon his permanent residency, not because he was obliged to do so or because of circumstances beyond his control but rather of his own volition as he chose to pursue employment and business interests outside Canada.

[14] The appellants have never attended school in Canada, have never worked in Canada, have never paid taxes in Canada. Their degree of establishment in Canada is non-existent. They have no

establishment in Canada and a far greater degree of attachment and establishment in Lebanon where the entire immediate family resides at this time.

CONCLUSION

[15] To grant the appellants' appeal under the circumstances of this case would be to allow for the integrity of the immigration system to be compromised. If the appellants truly wish to pursue their studies in Canada in the future, they can always apply as foreign students.

[16] Unfortunately, the appellants today have failed to meet the onus which was incumbent upon them. The appeal is dismissed.

NOTICE OF DECISION

The appeal is **dismissed**.

XXXX XXXX

XXXX XXXX

2014

Date

/

NOTE - Judicial review - Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.

Sample No. 3

Immigration and Refugee Board

Refugee Protection Division



Commission de l'immigration et du statut de
réfugié

Section de la protection des réfugiés

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

Private Proceeding
Huis clos

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| | | |
|----------------------------------|-----------------------|-----------------------------------------|
| Claimant(s) | | Demandeur(e)s d'asile |
| | Xxx XXXX | |
| Date(s) of Hearing | | Date(s) de l'audience |
| | November 21, 2007 | |
| Place of Hearing | | Lieu de l'audience |
| | Montréal, Quebec | |
| Date of Decision | | Date de la décision |
| | January 23, 2008 | |
| Panel | | Tribunal |
| | Xxx XXXX | |
| Claimant's Counsel | | Conseil du demandeur d'asile |
| | Xxx XXXX | |
| Tribunal Officer | | Agent du tribunal |
| | (Filing of documents) | |
| Designated Representative | | Représentant désigné |
| | N/A | |
| Minister's Counsel | | Conseil du ministre |
| | N/A | |

[1] Xxx XXXX is a citizen of the Republic of Cameroon. He alleges that he is a Convention refugee and a person in need of protection within the meaning of section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (the Act).

ALLEGATIONS

[2] The claimant alleged that he was in danger in his country of citizenship because his common-law spouse, X, had been chosen to be one of the wives of the new village chief of Baboudeu in Bafang. She managed to escape this plight and fled to Canada on February 5, 2006, where she was found to be a Convention refugee on May 26, 2006, without a hearing.

[3] After the claimant's spouse left, five men went to the office where he was working on Tuesday, February 7, 2006. It was his spouse's uncle, accompanied by two gendarmes and two villagers, who handcuffed the claimant and escorted him to their vehicle. Once inside the vehicle, they questioned the claimant as to the whereabouts of Suzanne, the chief's wife. He was ordered to show them where she was hiding. Although the claimant denied it, Suzanne's uncle was convinced that the claimant had hidden her. The claimant was threatened by the gendarmes because they thought he was lying. The claimant alleged that he could not tell them the whereabouts of his spouse, who was pregnant with his child when she left. The claimant was taken to the station, where he was held for a few days before being transferred to the Bafang central prison. There, the claimant was mistreated and detained in inhuman conditions, which caused his mental and physical health to deteriorate significantly.

[4] A few months later, the first assistant to the prison administrator was transferred to another location and replaced by someone else. For 300,000 CFA francs, this new person allowed the claimant to contact his brother. Thus, the claimant was released on July 23, 2006. The claimant contacted the same smuggler who had helped his spouse and left Cameroon on August 9, 2006, for Paris with a false passport in the name of Xxx XXXX. In France, another person, Xxx XXXX, gave him a French passport in the name of Xxx XXXX, which he used to fly to Montréal, arriving on August 11, 2006. Someone else was waiting for him there and he gave his travel documents to this person. The claimant claimed refugee protection four days later.

[5] After arriving in Canada, the claimant learned that his mother and brother had moved to the northern part of the country.

DETERMINATION

[6] The panel determines that the claimant is not a Convention refugee or a person in need of protection, for the reasons that follow.

ANALYSIS

Identity

[7] To establish his identity, the claimant filed, among other things, his student card, his birth certificate and a number of school documents. The panel concludes that the claimant has provided acceptable documentation establishing his identity within the meaning of section 106¹ of the Act.

Credibility

[8] The claimant was not credible, and his testimony was not trustworthy, with respect to the essential elements of his claim for refugee protection.

[9] The claimant testified that he had been living with his spouse, X, since July 2002, in Douala. He stated that they were open about their relationship and were seen as an engaged couple. The claimant stated that he had asked X's uncle for her hand. Her uncle lived in the village of Badoudeu in Bafang, which the claimant stated was in western Cameroon, about four hours' drive from Douala. The claimant stated that he had asked for X's hand the first time he met her uncle in June 2002, but that he had still not given him his answer.

[10] The claimant's spouse, who was determined to be a Convention refugee in May 2006, without a hearing, did not testify at the claimant's hearing. Thus, the claimant could not explain why she had not mentioned this marriage proposal in her narrative, which was filed as Exhibit A-3. His spouse alleged the following:

... I started living with **Hervé** in July 2002 in Douala. We had often talked about our desire to get married, but we needed my uncle's permission to do so. But every time I raised the subject with my uncle, he would be vague and find a way to put the

¹ **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.

conversation off to another day. In August 2005, I found out I was pregnant with Hervé's child. We were very happy.

[Reproduced as is]

[11] The claimant stated that his problems started in October 2005. He explained that X had told him that she had to go to the village to attend the funeral of the chief, who had died, because her adoptive uncle was one of the nine dignitaries of Baboudeu in Bafang. He stated that his spouse did not return to Douala the day he expected her to; he called an acquaintance in the village, who told him that X had been chosen, along with six other women, to be one of the wives of the new village chief. The claimant was unable to provide any details as to the name or the date of death of the late chief, but he provided the name of the new chief, as given in his spouse's written testimony.²

[12] The claimant explained that, because X's uncle was one of the nine village dignitaries, according to tradition, he had to give one of his daughters to the new chief in marriage. He stated that, because X's uncle had only sons, he had offered his adopted daughter. The claimant explained that the seven wives had to spend three months confined with the newly appointed chief in order to become pregnant. Indeed, his spouse's narrative reads as follows:

I tried to protest, resist, but it was in vain. The Chief's gorillas seized me and brought me to the *Lâ. Kam*, the chief's secret enclosure where, according to tradition, the chief is shut in with his new wives for three months. That is where my everyday life became a nightmare and I was subjected to continuous physical and mental pressure from the Chief and his subordinates to force me to give in to his sexual advances and other perversions. It was a true hell.

After about four weeks, I managed to escape while everyone was sleeping. In the dark, I headed for a childhood friend's house that was not far away. He panicked when I showed up at his house. He was afraid of reprisals. Very early in the morning, he helped me get to the city of Bafang, where he gave me some money and dropped me off. I immediately went to buy a bus ticket for Douala.

[Reproduced as is]

[13] Although the claimant knows nothing about the late chief, he testified that the new chief's wife did not have to be a virgin. The claimant took no steps to rescue his spouse because, as he stated, he had no power against a dignitary from the village of Badoudeu. He stated that, out of fear, X had not told either her uncle or the village chief that she was already pregnant in order to avoid

² Exhibit A-3, Reasons for decision in file No. MA6-00881, Personal Information Form (PIF), question 31.

what they had planned for her. The claimant did not ask the authorities for help either because, according to him, they do not intervene in this type of problem.

[14] The claimant testified that X did not encounter any obstacles when she fled. However, even though she returned to their home in Douala after fleeing, the claimant could not provide any details about how she had escaped the [translation] “chief’s gorillas”, as he described them, or about why she had waited a month before running away, given that no one opposed her when she fled.

[15] But the real problem lies in the claimant’s statement that his spouse did not have sexual relations with the new village chief during the four weeks she was allegedly confined with him. How is this possible, when the very purpose of this confinement was for the wives to become pregnant? The claimant stated that perhaps **Suzanne’s** turn had not yet come.

[16] The panel rejects this story as devoid of credibility.

[17] First, the claimant is of the same ethnic group as his spouse (Bamiléké)³ and studied in the region his spouse comes from (Bafang).⁴ It is surprising, indeed inconsistent, in the alleged context of ethnic customs and traditions, that the claimant would spontaneously know the name of the new chief of Baboudeu, although he himself lived in Douala, and yet know nothing about the former chief of that region, even though his pregnant spouse allegedly travelled four hours by road to attend this person’s funeral.

[18] Second, even though it is just plausible—although surprising—that the claimant would allow his pregnant spouse to make this journey to the village alone, it is not plausible that he would do nothing, however small, to rescue the woman he had asked to marry him and who was carrying his child. The claimant did not even, at a minimum, go to the village to find out whether **Suzanne** was really there and to confirm what he had allegedly been told by a mere acquaintance; once there, he could have tried telling them that his spouse was already pregnant and thus attempted to save her from the fate supposedly awaiting her. This story makes no sense, and the panel does not believe it. The claimant’s explanation that he had no power against a village dignitary is not reasonable, given

³ Exhibit D-1, Claimant’s Personal Information Form (PIF);

Exhibit A-3, Reasons for decision in file No. **MA6-00881**, Personal Information Form (PIF), question 1 (g).

⁴ Exhibit A-3, Reasons for decision in file No. **MA6-00881**, Personal Information Form (PIF), question 1 (e);
Exhibit D-1, Claimant’s Personal Information Form (PIF), question 6.

that the claimant did not verify the information he had obtained from an acquaintance and did not even try going to the village and telling them that his spouse was already pregnant—important, relevant information that could have completely changed the situation in the alleged context of traditions and customs.

[19] Moreover, in the specific circumstances of this case, the panel considers it equally inconsistent that the claimant’s spouse would have been able to escape the [translation] “chief’s gorillas” in her village so easily on two occasions, even though her uncle allegedly took the most extreme measures against the claimant.

[20] It follows from the above analysis that the panel does not believe this scenario, which it considers implausible because it is not consistent with the evidence that is plausible. Consequently, the panel does not believe that X’s uncle, his henchmen and gendarmes went to his home, or that he was arrested and detained, after his spouse left for Canada. It follows that the panel also does not believe that, as a result, the claimant’s family experienced the consequences he described.

CONCLUSION

[21] Having analyzed all of the evidence, the panel concludes that the claimant has not discharged his burden of establishing that there is a “serious possibility” that he would be persecuted on one of the Convention grounds. He also failed to establish, on a balance of probabilities, that should he return to Cameroon, 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.

[22] For the foregoing reasons, the panel determines that the claimant, Xxxx **XXXXXX**, is not a Convention refugee or a person in need of protection. His claim for refugee protection is rejected.

XXXX XXXX

XXXX XXXX

January 23, 2008

Date

Sample No. 4

Immigration and Refugee Board



Commission de l'immigration et du statut de
réfugié

Refugee Appeal Division

Section d'appel des réfugiés

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

Private Proceeding
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Claimant(s)

Demandeur(e)s d'asile

Xxx XXXX

Date(s) of Hearing

Date(s) de l'audience

November 21, 2007

Place of Hearing

Lieu de l'audience

Montréal, Quebec

Date of Decision

Date de la décision

January 23, 2008

Panel

Tribunal

Xxx XXXX

Claimant's Counsel

**Conseil du demandeur
d'asile**

Xxx XXXX

Tribunal Officer

Agent du tribunal

(Filing of documents)

Designated Representative

Représentant désigné

N/A

Minister's Counsel

Conseil du ministre

N/A

[1] Xxx XXXX is a citizen of the Republic of Cameroon. He alleges that he is a Convention refugee and a person in need of protection within the meaning of section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (the Act).

ALLEGATIONS

[2] The claimant alleged that he was in danger in his country of citizenship because his common-law spouse, X, had been chosen to be one of the wives of the new village chief of Baboudeu in Bafang. She managed to escape this plight and fled to Canada on February 5, 2006, where she was found to be a Convention refugee on May 26, 2006, without a hearing.

[3] After the claimant's spouse left, five men went to the office where he was working on Tuesday, February 7, 2006. It was his spouse's uncle, accompanied by two gendarmes and two villagers, who handcuffed the claimant and escorted him to their vehicle. Once inside the vehicle, they questioned the claimant as to the whereabouts of Suzanne, the chief's wife. He was ordered to show them where she was hiding. Although the claimant denied it, Suzanne's uncle was convinced that the claimant had hidden her. The claimant was threatened by the gendarmes because they thought he was lying. The claimant alleged that he could not tell them the whereabouts of his spouse, who was pregnant with his child when she left. The claimant was taken to the station, where he was held for a few days before being transferred to the Bafang central prison. There, the claimant was mistreated and detained in inhuman conditions, which caused his mental and physical health to deteriorate significantly.

[4] A few months later, the first assistant to the prison administrator was transferred to another location and replaced by someone else. For 300,000 CFA francs, this new person allowed the claimant to contact his brother. Thus, the claimant was released on July 23, 2006. The claimant contacted the same smuggler who had helped his spouse and left Cameroon on August 9, 2006, for Paris with a false passport in the name of Xxx XXXX. In France, another person, Xxx XXXX, gave him a French passport in the name of Xxx XXXX, which he used to fly to Montréal, arriving on August 11, 2006. Someone else was waiting for him there and he gave his travel documents to this person. The claimant claimed refugee protection four days later.

[5] After arriving in Canada, the claimant learned that his mother and brother had moved to the northern part of the country.

DETERMINATION

[6] The panel determines that the claimant is not a Convention refugee or a person in need of protection, for the reasons that follow.

ANALYSIS

Identity

[7] To establish his identity, the claimant filed, among other things, his student card, his birth certificate and a number of school documents. The panel concludes that the claimant has provided acceptable documentation establishing his identity within the meaning of section 106¹ of the Act.

Credibility

[8] The claimant was not credible, and his testimony was not trustworthy, with respect to the essential elements of his claim for refugee protection.

[9] The claimant testified that he had been living with his spouse, X, since July 2002, in Douala. He stated that they were open about their relationship and were seen as an engaged couple. The claimant stated that he had asked X's uncle for her hand. Her uncle lived in the village of Badoudeu in Bafang, which the claimant stated was in western Cameroon, about four hours' drive from Douala. The claimant stated that he had asked for X's hand the first time he met her uncle in June 2002, but that he had still not given him his answer.

[10] The claimant's spouse, who was determined to be a Convention refugee in May 2006, without a hearing, did not testify at the claimant's hearing. Thus, the claimant could not explain why she had not mentioned this marriage proposal in her narrative, which was filed as Exhibit A-3. His spouse alleged the following:

... I started living with **Hervé** in July 2002 in Douala. We had often talked about our desire to get married, but we needed my uncle's permission to do so. But every time I raised the subject with my uncle, he would be vague and find a way to put the

¹ **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.

conversation off to another day. In August 2005, I found out I was pregnant with Hervé's child. We were very happy.

[Reproduced as is]

[11] The claimant stated that his problems started in October 2005. He explained that X had told him that she had to go to the village to attend the funeral of the chief, who had died, because her adoptive uncle was one of the nine dignitaries of Baboudeu in Bafang. He stated that his spouse did not return to Douala the day he expected her to; he called an acquaintance in the village, who told him that X had been chosen, along with six other women, to be one of the wives of the new village chief. The claimant was unable to provide any details as to the name or the date of death of the late chief, but he provided the name of the new chief, as given in his spouse's written testimony.²

[12] The claimant explained that, because X's uncle was one of the nine village dignitaries, according to tradition, he had to give one of his daughters to the new chief in marriage. He stated that, because X's uncle had only sons, he had offered his adopted daughter. The claimant explained that the seven wives had to spend three months confined with the newly appointed chief in order to become pregnant. Indeed, his spouse's narrative reads as follows:

I tried to protest, resist, but it was in vain. The Chief's gorillas seized me and brought me to the *Lâ. Kam*, the chief's secret enclosure where, according to tradition, the chief is shut in with his new wives for three months. That is where my everyday life became a nightmare and I was subjected to continuous physical and mental pressure from the Chief and his subordinates to force me to give in to his sexual advances and other perversions. It was a true hell.

After about four weeks, I managed to escape while everyone was sleeping. In the dark, I headed for a childhood friend's house that was not far away. He panicked when I showed up at his house. He was afraid of reprisals. Very early in the morning, he helped me get to the city of Bafang, where he gave me some money and dropped me off. I immediately went to buy a bus ticket for Douala.

[Reproduced as is]

[13] Although the claimant knows nothing about the late chief, he testified that the new chief's wife did not have to be a virgin. The claimant took no steps to rescue his spouse because, as he stated, he had no power against a dignitary from the village of Badoudeu. He stated that, out of fear, X had not told either her uncle or the village chief that she was already pregnant in order to avoid

² Exhibit A-3, Reasons for decision in file No. MA6-00881, Personal Information Form (PIF), question 31.

what they had planned for her. The claimant did not ask the authorities for help either because, according to him, they do not intervene in this type of problem.

[14] The claimant testified that X did not encounter any obstacles when she fled. However, even though she returned to their home in Douala after fleeing, the claimant could not provide any details about how she had escaped the [translation] “chief’s gorillas”, as he described them, or about why she had waited a month before running away, given that no one opposed her when she fled.

[15] But the real problem lies in the claimant’s statement that his spouse did not have sexual relations with the new village chief during the four weeks she was allegedly confined with him. How is this possible, when the very purpose of this confinement was for the wives to become pregnant? The claimant stated that perhaps Suzanne’s turn had not yet come.

[16] The panel rejects this story as devoid of credibility.

[17] First, the claimant is of the same ethnic group as his spouse (Bamiléké)³ and studied in the region his spouse comes from (Bafang).⁴ It is surprising, indeed inconsistent, in the alleged context of ethnic customs and traditions, that the claimant would spontaneously know the name of the new chief of Baboudeu, although he himself lived in Douala, and yet know nothing about the former chief of that region, even though his pregnant spouse allegedly travelled four hours by road to attend this person’s funeral.

[18] Second, even though it is just plausible—although surprising—that the claimant would allow his pregnant spouse to make this journey to the village alone, it is not plausible that he would do nothing, however small, to rescue the woman he had asked to marry him and who was carrying his child. The claimant did not even, at a minimum, go to the village to find out whether Suzanne was really there and to confirm what he had allegedly been told by a mere acquaintance; once there, he could have tried telling them that his spouse was already pregnant and thus attempted to save her from the fate supposedly awaiting her. This story makes no sense, and the panel does not believe it. The claimant’s explanation that he had no power against a village dignitary is not reasonable, given

³ Exhibit D-1, Claimant’s Personal Information Form (PIF);

Exhibit A-3, Reasons for decision in file No. MA6-00881, Personal Information Form (PIF), question 1 (g).

⁴ Exhibit A-3, Reasons for decision in file No. MA6-00881, Personal Information Form (PIF), question 1 (e);
Exhibit D-1, Claimant’s Personal Information Form (PIF), question 6.

that the claimant did not verify the information he had obtained from an acquaintance and did not even try going to the village and telling them that his spouse was already pregnant—important, relevant information that could have completely changed the situation in the alleged context of traditions and customs.

[19] Moreover, in the specific circumstances of this case, the panel considers it equally inconsistent that the claimant’s spouse would have been able to escape the [translation] “chief’s gorillas” in her village so easily on two occasions, even though her uncle allegedly took the most extreme measures against the claimant.

[20] It follows from the above analysis that the panel does not believe this scenario, which it considers implausible because it is not consistent with the evidence that is plausible. Consequently, the panel does not believe that X’s uncle, his henchmen and gendarmes went to his home, or that he was arrested and detained, after his spouse left for Canada. It follows that the panel also does not believe that, as a result, the claimant’s family experienced the consequences he described.

CONCLUSION

[21] Having analyzed all of the evidence, the panel concludes that the claimant has not discharged his burden of establishing that there is a “serious possibility” that he would be persecuted on one of the Convention grounds. He also failed to establish, on a balance of probabilities, that should he return to Cameroon, 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.

[22] For the foregoing reasons, the panel determines that the claimant, Xxxx **XXXXXX**, is not a Convention refugee or a person in need of protection. His claim for refugee protection is rejected.

XXXX XXXX

XXXX XXXX

January 23, 2008

Date

Sample No. 5

RECORD OF A *DETENTION REVIEW HEARING*
(*DECISION PART ONLY*) or *ADMISSIBILITY HEARING* HELD BY
THE IMMIGRATION DIVISION OF THE
IMMIGRATION AND REFUGEE BOARD OF CANADA

HELD AT *indicate location*
HEARING: PUBLIC

FILE NUMBER : AX-XXXXX
DATE : XX XXXXX XXXX

BETWEEN: The Minister of Public Security and Civil Protection

and : XXXXXXXXXXXXXXXX

TRIBUNAL : XXXXXXXXXXXX

MINISTER'S COUNSEL: XXXXXXXXXXXX

COUNSEL OF THE PERSON
CONCERNED: XXXXXXXXXXXX

INTERPRETER: XXXXXXXXXXXX

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Sample No. 7

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A DETENTION REVIEW (decision only)
IMMIGRATION DIVISION
IMMIGRATION AND REFUGEE BOARD

HELD AT (*indicate location*)
PRIVATE PROCEEDING

FILE NUMBER: AX-XXXXX
DATE: XX XXXXX XXXX

BETWEEN: The Minister of Public Safety and Emergency Preparedness

AND: XXXXXXXXXXXXXXXX

PANEL: XXXXXXXXXXXX

MINISTER'S
COUNSEL: XXXXXXXXXXXX

COUNSEL FOR THE
PERSON CONCERNED: XXXXXXXXXXXX

INTERPRETER: XXXXXXXXXXXX

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A DETENTION REVIEW (decision only)
IMMIGRATION DIVISION
IMMIGRATION AND REFUGEE BOARD

HELD AT (*indicate location*)
PUBLIC HEARING

FILE NUMBER: AX-XXXXX
DATE: XX XXXXX XXXX

BETWEEN: The Minister of Public Safety and Emergency Preparedness

AND: XXXXXXXXXXXXXXXX

PANEL: XXXXXXXXXXXX

MINISTER'S
COUNSEL: XXXXXXXXXXXX

COUNSEL FOR THE
PERSON CONCERNED: XXXXXXXXXXXX

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