



RPD File No. / N° de dossier de la SPR : MB1-02651

Private Proceeding

Huis clos

Claimant(s)

Demandeur(e)s d'asile

XXXX XXXX

Date(s) of Hearing

Date(s) de l'audience

December 12, 2012

Place of Hearing

Lieu de l'audience

Montréal, Quebec

Date of Decision

Date de la décision

December 20, 2012

Panel

Tribunal

José wa Tshisungu Tshisungu

Claimant's Counsel

Conseil du demandeur d'asile

M^c Réginal Victorin

Tribunal Officer

Agent du tribunal

Myra Shuster
[Filing of documents]

Designated Representative

Représentant désigné

N/A

Minister's Counsel

Conseil du ministre

N/A

[1] XXXX XXXX is a Haitian citizen who is claiming refugee protection in Canada under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*¹ (the IRPA).

ALLEGATIONS

[2] In support of her claim, she alleged that she was born in XXXX 1982. When she was a teenager, she was the victim of physical and sexual violence, but she managed to find refuge in XXXX. She alleged that the police did not help her. After the earthquake of January 12, 2010, she was living in fear of being raped. During a stay in Canada, she took the opportunity to claim refugee protection.

ANALYSIS

Applicable legal provisions

[3] Given that the claimant alleged a fear of rape, the panel assessed her fear in light of one of the five Convention grounds—namely, her membership in the particular social group of women. It is therefore section 96 that applies in this case.

Identity

[4] The claimant established her identity by means of her testimony and various documents submitted as evidence. The panel is satisfied with this.

Credibility

[5] Having analyzed all of the evidence on file, the panel makes the following conclusions. Although she claims to have been raped by her boyfriend when she was a teenager, she did not speak about it to anyone close to her, and she did not file a complaint with the police.

[6] When asked about this, she merely stated that [translation] “I never told anyone at home about my problems” and then added that “the police would not have believed me.” The panel cannot accept such a response, which does not explain how a young girl endured being raped repeatedly for two years, from 2000 to 2002, from ages 18 to 20, before leaving the rapist’s home and going to XXXX to live with members of her family.

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

[7] Moreover, at the hearing on December 12, 2012, she stated that she had lived in Port-au-Prince with the alleged rapist from 2000 to 2002. According to her response to question 31 of her Personal Information Form (PIF), it was by leaving Port-au-Prince for XXXX that she [translation] “was able to escape that hell.” The panel notes that those elements contradict the answer to question 6 of the PIF, which indicates that she was living in Port-au-Prince and not in XXXX from 1998 to 2005. That contradiction goes to the heart of her claim and relates to her own statements for which it is not necessary to confront her. Consequently, that fatal contradiction destroys her credibility.

[8] Furthermore, in response to question 42 of the exhibit titled *Claim for Refugee Protection in Canada*, entered to the record under A-2, she stated that she fears being persecuted by her ex-boyfriend. At the hearing on December 12, 2012, she stated: [translation] “I fear no one. I would have no place to live.”

[9] The panel is of the opinion that the alleged agent of persecution is a complete fabrication, which adds to the claimant’s lack of credibility.

[10] Lastly, the delay in claiming refugee protection illustrates, in its own way, a total lack of credibility. In fact, the claimant arrived in Canada on XXXX XXXX, 2010, and found a job as a babysitter with a woman named XXXX XXXX before the end of that same month, according to her response to question 7 of the PIF. She claimed refugee protection only a XXXX XXXX XXXX months later, on XXXX XXXX, 2011. The panel is of the opinion that such a delay is inconsistent with the subjective fear and the aim of quickly obtaining protection in the host country.

[11] The panel concludes that the objective situation in Haiti, namely the economic insecurity resulting from the 2010 earthquake, can in no way justify fabricating testimony devoid of any credibility.

DETERMINATION

[12] For all these reasons, the panel rejects the claimant's aforementioned refugee protection claim. It determines that she is not a "Convention refugee" or a "person in need of protection."

José wa Tshisungu Tshisungu

José wa Tshisungu Tshisungu

December 20, 2012

Date

IRB translation

Original language: French

REFUGEE PROTECTION DIVISION / PARTICULAR SOCIAL GROUP / WOMAN /
VIOLENCE AGAINST WOMEN / RISK / RAPE / SUBJECTIVE FEAR / DELAY IN
MAKING A CLAIM / CREDIBILITY / FEMALE / NEGATIVE / HAITI