FEDERAL COURT OF AUSTRALIA

Minister for Immigration and Citizenship v SZNSP [2010] FCAFC 50

Citation:	Minister for Immigration and Citizenship v SZNSP [2010] FCAFC 50
Appeal from:	SZNSP v Minister for Immigration & Anor [2009] FMCA 1143
Parties:	**MINISTER FOR IMMIGRATION AND CITIZENSHIP v SZNSP and REFUGEE REVIEW TRIBUNAL**
File number:	NSD 1374 of 2009
Judge:	**NORTH, LANDER AND KATZMANN JJ**
Date of judgment:	4 June 2010
Catchwords:	**MIGRATION** – review of a decision of the Refugee Review Tribunal (RRT) – Federal Magistrate quashing a decision of the RRT and requiring the RRT to review the application according to law – whether the RRT had given weight to corroborative evidence – whether RRT's decision was affected by apprehended bias – RRT does not fall into jurisdictional error by first making an assessment of the applicant's credit and then giving attention to the corroborative evidence – corroborative evidence is assessed and weighed in the balance with all other evidence
Legislation:	*Migration Act 1958* (Cth)
Cases cited:	*Re Minister for Immigration and Multicultural Affairs; Ex parte Applicant S20/2002* (2003) 198 ALR 59 *SZDGC v Minister for Immigration and Citizenship* [2008] FCA 1638; (2008) 105 ALD 25 *WAJQ v Minister for Immigration and Multicultural and Indigenous Affairs* [2004] FCA 1580
Date of hearing:	2 March 2010
Date of last submissions:	8 March 2010
Place:	Sydney
Division:	GENERAL DIVISION

Category:	Catchwords
Number of paragraphs:	50
Counsel for the Appellant:	Mr S. Lloyd SC & Mr T. Reilly
Counsel for the First Respondent:	Mr B. O'Donnell
Solicitor for the Appellant:	DLA Phillips Fox

IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY
GENERAL DIVISION **NSD 1374 of 2009**

ON APPEAL FROM THE FEDERAL MAGISTRATES COURT OF AUSTRALIA

BETWEEN: **MINISTER FOR IMMIGRATION AND CITIZENSHIP**
Appellant

AND: **SZNSP**
First Respondent

REFUGEE REVIEW TRIBUNAL
Second Respondent

JUDGES: **NORTH, LANDER AND KATZMANN JJ**
DATE OF ORDER: **4 JUNE 2010**
WHERE MADE: **SYDNEY**

THE COURT ORDERS THAT:

1. The appeal be allowed.

2. The orders of Raphael FM of 11 November 2009 be set aside and in lieu thereof:

   (a) The first respondent's application in the Federal Magistrates Court be dismissed; and

   (b) The first respondent pay the appellant's costs of that application in the Federal Magistrates Court.

3. The first respondent pay the appellant's costs of the appeal.

Note: Settlement and entry of orders is dealt with in Order 36 of the Federal Court Rules. The text of entered orders can be located using Federal Law Search on the Court's website.

IN THE FEDERAL COURT OF AUSTRALIA
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BETWEEN: MINISTER FOR IMMIGRATION AND CITIZENSHIP
Appellant

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First Respondent

REFUGEE REVIEW TRIBUNAL
Second Respondent

JUDGES: NORTH, LANDER AND KATZMANN JJ
DATE: 4 JUNE 2010
PLACE: SYDNEY

REASONS FOR JUDGMENT

NORTH & LANDER JJ

1 This is an appeal from orders of a Federal Magistrate made on 11 November 2009. On that day the Federal Magistrate ordered that a writ of certiorari issue directed to the second respondent, the Refugee Review Tribunal (RRT), removing into the Federal Magistrates Court the decision of the RRT made on 12 June 2009 to be quashed. He also ordered that a writ of mandamus be directed to the RRT directing it to reconsider and determine the application before it according to law.

2 On 29 November 2008 the first respondent arrived in Australia. On 16 December 2008 she applied for a Protection (Class XA) visa. On 24 February 2009, in a decision notified to the first respondent on the same day, a delegate of the appellant decided to refuse to grant the visa on the ground that the first respondent was not a person to whom Australia has protection obligations under the United Nations Refugees Convention of 1951 as amended by the Refugees Protocol of 1967 (Refugees Convention). On 6 March 2009 the first respondent applied to the RRT for a review of the delegate's decision. On 12 June 2009

the RRT affirmed the delegate's decision not to grant the first respondent a Protection (Class XA) visa.

3 On 2 July 2009 the first respondent applied to the Federal Magistrates Court for a review of the RRT's decision. On 1 December 2009 the first respondent filed a notice of appeal upon which this appeal is brought.

4 The first respondent was born on 12 June 1970 in the People's Republic of China (PRC) and prior to coming to Australia lived in Kaifeng City, Henan Province. She was a member of the Chinese Communist Party and worked with the Sanlibao Administration Centre of Yuwangtai District at the head office for the Minxiang Community for 10 years.

5 Falun Gong was founded in 1992 in the PRC by Li Hongzhi and blends a development regime known as Qi Gong with elements of Buddhist and Taoist philosophy. Falun Gong first came to the attention of the PRC authorities in 1999 after a demonstration by Falun Gong adherents in April 1999. In October 1999 the authorities declared Falun Gong to be an "evil cult" and it was outlawed. Subsequently, the authorities have described Falun Gong as a "threat to social and political stability".

6 The first respondent said that on 4 September 2008 her superiors came to inspect the place at which she worked because they were concerned about the possibility that Falun Gong members might cause trouble in the area by blocking roads. She was told to exercise control over two Falun Gong activists, Lu Mei Ya (Lu) and Zhong Wen Bin (Zhong).

7 She said Lu and Zhong had been incarcerated by the police on a number of occasions and whilst they were in police custody the first respondent brought them daily necessities, such as food and clothing, because she believed them to be a kind and honest couple who always spoke their mind, but did nothing to harm anyone else. Lu and Zhong had a child who was married. Their child suffered from schizophrenia and their daughter-in-law had epilepsy. They were unable to take care of themselves.

8 For those reasons, the first respondent claimed that she gave Lu a warning that she and Zhong should go into hiding with their relatives to avoid further incarceration. She said

that her leaders became aware of the warning given to Lu and Zhong and, as a result, she became the target of her superiors who accused her of being a Falun Gong accomplice.

9 The first respondent said that she was warned that she would need to locate Lu and Zhong and, if she failed to do so, she would be dismissed from her employment and be charged with a criminal offence. She said she became frightened that she would be sent to a labour camp or lose her own freedom, as a result of which she lost her appetite and had trouble sleeping. She said one of her friends told her that she should flee China which she did and, as a consequence, came to Australia.

10 The first respondent's claim in the RRT was that she feared persecution in PRC by reason of her religion or imputed political opinion.

11 At the RRT hearing the first respondent presented a witness statement dated 26 March 2009 which had been translated into English by the Yetao Language and Education Service in New South Wales purporting to be of Mei Ya Lu. The witness statement corroborated the first respondent's claims in that the statement claimed that the author was a Falun Gong practitioner, who had been warned by the first respondent in September 2008 that the police planned to detain her and, as a result, she went into hiding.

12 The RRT did not believe the first respondent's claims. Indeed, the RRT concluded that the first respondent had fabricated her claims. That conclusion was based upon a number of matters. First, the RRT found it difficult to accept that an active member of the Chinese Communist Party would assist a Falun Gong practitioner having regard to the potential consequences. Secondly, her evidence was general in nature and lacked particularity and detail. Thirdly, the first respondent's written claims related to Lu and Zhong, whilst her oral evidence only referred to Lu. The RRT doubted her claims that she was dismissed from her employment because she was not able to provide any documentary proof in support of that claim. The RRT noted that the first respondent had no difficulties in departing China which suggested, contrary to her claims, she was not of any adverse interest to Chinese authorities.

13 After making those findings the RRT addressed the witness statement which had been provided and in its reasons said at [60]:

> In support of her claims, the applicant has provided a document purported to be, *Witness Statement*, from Lu Mei Ya (folios 29-32). Given the adverse credibility finding, the Tribunal does not give weight to the document.

14 In her application in the Federal Magistrates Court the first respondent claimed that the RRT's decision was affected by apprehended bias. She particularised that claim in her amended application filed on 8 September 2009:

> The Tribunal's findings in regard to the applicant's credibility were based on minor discrepancies such as the applicant sometimes referring to a person whom she had helped to escape from persecution in the singular, and sometimes in the plural to include the person's husband.

15 She contended that the RRT refused to give any weight to a corroborating statement because it had already made up its mind that the applicant was not telling the truth. A reasonable person could infer from the above that the RRT was not prepared to consider the evidence on its merits but had approached the case with a closed mind.

16 The Federal Magistrate rejected the first respondent's principal claim that jurisdictional error was shown by making out apprehended bias on the part of the RRT. However, the Federal Magistrate addressed *Re Minister for Immigration and Multicultural Affairs; Ex parte Applicant S20/2002* (2003) 198 ALR 59 and the dicta of McHugh and Gummow JJ at [49]. The Federal Magistrate said that that decision did not support a suggestion that corroborative evidence can be ignored if the RRT comes to a preliminary view that an applicant's evidence cannot satisfy it that that person is one to whom Australia has protection obligations without the RRT first deciding that the applicant had lied.

17 The Federal Magistrate referred to a decision of Finkelstein J in *SZDGC v Minister for Immigration* [2008] FCA 1638 and said:

> 12. In the instant case the Tribunal did not find that the applicant had lied. It found it difficult to believe a number of assertions that she had made but it did believe others. For example, it believed her important assertion that she was a member of the Communist Party and that she held some government position of the type described by her. It came to the view that her evidence had been fabricated only after a consideration of the cumulative effect of 'minor' concerns. It should have weighted the corroborative evidence against those concerns because it went to the heart of her claims and confirmed some aspects of the applicant's story that the Tribunal also accepted, such as her employment by the local government.

> 13. To my mind reliance on the dicta in *S20* has strained that decision almost to the point of breaking. I think that the views expressed by Finkelstein J provide a timely warning of the concerns that are beginning to arise. I said as much in *SZMYI v Minister for Immigration* [2009] FMCA 770 in which I ordered that the constitutional writs issue. Whilst I would not hold up one of my own cases as authority for anything, I do note that the Minister did not appeal my decision.
>
> 14. To my mind the Tribunal fell into jurisdictional error in the manner in which it reached its decision in this case by its failure to give consideration to the corroborative evidence produced by the applicant prior to its conclusion as to her credibility. I am satisfied that the respondent had an opportunity to consider this aspect of the matter and did so in its written submissions. I did not feel there was any necessity to provide the applicant with pro bono legal assistance. She appears to have had the help of a solicitor who, I suspect, drew the amended application. I am satisfied that the amended application indicates the nature of the jurisdictional error that I have found even if it was not expressed in quite that manner; and, as I asked Ms Weston specifically whether she had anything further to say regarding paragraph 15 and gave her an opportunity to address me on that subject, I believe that I provided all parties with procedural fairness prior to coming to this conclusion.

18 This appeal was heard contemporaneously with the appeal in *Minister for Immigration and Citizenship v SZNPG* [2010] FCAFC 51 in which the reasons for judgment were handed down and orders made today allowing that appeal. In that case, the Court decided that the issues in *Applicant S20/2002* 198 ALR 59 were not raised having regard to the RRT's reasons. However, the issue is directly raised on this appeal.

19 It was contended by the first respondent that the RRT was not entitled to put no weight upon the witness statement in the absence of the RRT first deciding that the first respondent had lied. The first respondent relied upon [49] of the reasons of McHugh and Gummow JJ who said:

> In a dispute adjudicated by adversarial procedures, it is not unknown for a party's credibility to have been so weakened in cross-examination that the tribunal of fact may well treat what is proffered as corroborative evidence as of no weight because the well has been poisoned beyond redemption. It cannot be irrational for a decision-maker, enjoined by statute to apply inquisitorial processes (as here), to proceed on the footing that no corroboration can undo the consequences for a case put by a party of a conclusion that that case comprises lies by that party. If the critical passage in the reasons of the tribunal be read as indicated above, the tribunal is reasoning that, because the appellant cannot be believed, it cannot be satisfied with the alleged corroboration. The appellant's argument in this court then has to be that it was irrational for the tribunal to decide that the appellant had lied without, at that earlier stage, weighing the alleged corroborative evidence by the witness in question. That may be a preferable method of going about the task presented by s 430 of the Act. But it is not irrational to focus first upon the case as it was put by the appellant.

20 The first respondent relied upon a decision of Finkelstein J in *SZDGC v Minister for Immigration and Citizenship* [2008] FCA 1638. In that case, Finkelstein J said at [23] after considering the dicta of McHugh and Gummow JJ at [49] in *Applicant S20/2002* 198 ALR 59:

> That proposition is no doubt true. But the circumstances for its application will be rare indeed. Even experienced applicants can only point to a handful of cases where a witness' credit has been so badly destroyed in cross-examination that it is possible to make findings of fact based on that evidence alone and simply disregard any corroborative evidence.

He referred to *WAIJ v Minister for Immigration and Multicultural and Indigenous Affairs* (2004) 80 ALD 568.

21 That case was also relied upon by the first respondent but that was a case where the majority held at [52] that "[t]he Tribunal appears to have considered that it could disregard documents that it was otherwise bound to consider if it surmised that it was possible that the documents could have been fabricated" and therefore fell into error.

22 Alternatively it was put by the first respondent that where the corroborative evidence is, as was in this case, not dependent upon the tendering party's credibility, the statement of McHugh and Gummow JJ in *Applicant S20/2002* 198 ALR 59 was inapplicable.

23 The first respondent also filed a notice of contention in which the first respondent contended:

> 1. The Second Respondent fell into jurisdictional error by giving no weight to the corroborating evidence of a witness statement of a third party, which corroborated the First Respondent's claims, because it had already found that the First Respondent lacked credibility in circumstances where the corroborative evidence was not dependent upon and could not be shown to be undermined by findings as to the First Respondent's credibility.
>
> 2. For the reasons given by the Federal Magistrate and for the reason in para 1 above, the decision of the Second Respondent was affected by jurisdictional error in that it was affected by:
> (1) apprehended bias;
> (2) irrationality and/or *Wednesbury* unreasonableness; or
> (3) a failure to take into account a relevant consideration.

24 The Minister on the other hand argued that *Applicant S20/2002* 198 ALR 59 does not stand for the proposition that the RRT must make a positive finding that an applicant has lied rather than fabricated the applicant's claim before applying the principle in *Applicant S20/2002* 198 ALR 59. The Minister contended that the circumstances of this case came squarely within the reasoning in *Applicant S20/2002* 198 ALR 59 and that the Federal Magistrate was wrong to conclude otherwise, and was wrong to find jurisdictional error on the part of the RRT.

25 In *Applicant S20/2002* 198 ALR 59 the appellant was a citizen of Sri Lanka and claimed to be a member of a wealthy Buddhist family. He said that whilst in Sri Lanka he had been taken into custody and tortured for two months because he had assisted two Tamils who were members of the Liberation Tigers of Tamil Eelam (the LTTE). He said that after his release he was required to report to police but instead he fled to Australia.

26 The RRT held that his claims were "exaggerated, far-fetched and implausible and therefore lacking in credibility".

27 The appellant in that case provided a doctor's report and a dentist's report which were proffered as corroborative evidence of the injuries which the appellant claimed that he had suffered. An independent witness was also called to give evidence in the RRT. He said that he met the appellant who appeared to have been beaten. His face was swollen and cut, he had many teeth missing and he was unable to walk. He said that the appellant was a stranger to him before he met him and he had had no contact with him since.

28 The RRT said of the those pieces of evidence:

> In light of the Tribunal's findings above that the [appellant] thoroughly lacks credibility, and its findings that the [appellant] has misled the Tribunal in regard to his claims to fear harm by the Sri Lankan authorities, it cannot be satisfied with the corroborating evidence given by the [appellant's] witness, and gives no weight to this evidence.

29 McHugh and Gummow JJ said that the tenor of the RRT's findings was that the appellant thoroughly lacked credibility, had misled the RRT and had lied. That led them to the dicta which is expressed in [49] of their reasons.

30 We do not agree with the contention that it is necessary to find expressly that a party has lied before concluding that a piece of evidence which might corroborate the party's account should be rejected. We do not read McHugh and Gummow JJ as saying that a precondition to the exercise which is described at [49] of their reasons is a finding that the party who is tendering the corroborative evidence in support of the party's evidence has lied.

31 As we have said in *Minister for Immigration and Citizenship v SZNPG* [2010] FCAFC 51 in reasons published today, the RRT should not be encouraged to find that an applicant for a Protection visa has lied. A finding of fabrication is enough to allow the RRT to consider whether the evidence which has been tendered in support of the applicant's case has the capacity to affect the RRT's assessment of the applicant's credibility.

32 But even if it is a precondition, a finding that the first respondent's claims were not credible and that she had fabricated her claim is tantamount to a finding of lying. It is a finding that the party making the claims has made those claims up. To make up claims is to lie about the existence of those claims.

33 Thus, consistently with *Applicant S20/2002* 198 ALR 59 it was open to the RRT to assess the credit of the first respondent and then, in the light of that assessment, consider what weight should be given to the witness statement. This was the process followed by the RRT which it described in the sentence "Given the adverse credibility finding, the Tribunal does not give weight to the document". Although expressed in the most cryptic terms, this statement shows that the RRT made an assessment of the value of the witness statement and then considered its effect in the light of the view it had formed to that point about the credibility of the first respondent.

34 It was not part of the first respondent's case that the RRT erred in its assessment of the weight of the corroborative evidence. Indeed no such submission could have succeeded. Without more, a failure to accord any weight to a piece of evidence does not give rise to jurisdictional error: *Minister for Immigration and Multicultural Affairs v Eshetu* (1999) 197 CLR 611; [1999] HCA 21.

35 Moreover, it was open to the RRT to conclude that, in view of all the evidence in the case, no reliance should be placed on the witness statement. The corroborative evidence was

not corroborative evidence at all. It did not tend to prove that the first respondent's evidence was true, nor does it act to strengthen that evidence. Corroborative evidence should be evidence independent of the person whose evidence is sought to be corroborated. It was evidence presented to the RRT by a person whom the RRT was of the opinion was fabricating her claims. The provenance of the witness statement was not established. It could easily have been created by the first respondent herself. It did not amount to corroborative evidence in the absence of proof of the provenance of the document and the reliability of the author, if in fact the author was Lu. If the first respondent was fabricating her claims, it would follow that she would fabricate the evidence upon which those claims are brought. That evidence would include the "corroborative" evidence of Lu.

36 When a decision maker has conducted a hearing of the kind which is conducted by the RRT and has heard the applicant, and has reached the tentative conclusion that the applicant's claims have been fabricated, the decision maker is entitled in our opinion to reject evidence which would, if accepted, have corroborated the applicant's account. That does not mean that any evidence of corroboration could be rejected. It would depend upon the nature, content and quality of the corroborative evidence before a decision maker could determine to reject it out of hand. In this case, as we have said, the document which is said to be the corroborative evidence is a document written in the Chinese language which has been interpreted, no doubt faithfully, into the English language and purports to be a statement of Lu. The applicant, whom the RRT believed was not a credible witness, proffered it as Lu's statement, but there was no other evidence other than the applicant's say so that it was. There is nothing irrational about the RRT in those circumstances rejecting the document by giving it no weight. In circumstances where the provenance of the document is unproved, but it is proffered by a witness whose credibility has been destroyed, the document has no more credit than the person proffering it. Consequently, the alternative argument relied upon by the appellants, outlined at [22] above, cannot be sustained.

37 Several further observations should be made concerning the type of situation addressed in *Applicant S20/2002* 198 ALR 59. The case does not relieve the RRT from giving consideration to corroborative evidence. It concerns only the timing of that consideration. The case establishes that the RRT does not act irrationally, and thereby fall

into jurisdictional error, by first making an assessment of the applicant's credit and then giving attention to the corroborative evidence.

38 The RRT would fall into jurisdictional error if, after making an adverse credibility finding, it simply refused to consider the corroborative evidence. *Applicant S20/2002* 198 ALR 59 does not sanction a practice of disregarding corroborative evidence. It still requires that the corroborative evidence be assessed and weighed in the balance with all the other evidence. Consequently, the observation concerning the dicta of McHugh and Gummow JJ at [49] in *Applicant S20/2002* 198 ALR 59 made in *SZDGC v Minister for Immigration and Citizenship* (2008) 105 ALD 25 at [23] is probably misdirected. Those observations addressed the situation where the corroborative evidence was disregarded.

39 On the other hand, it should be remembered that McHugh and Gummow JJ questioned whether the separate consideration of corroborative evidence was a preferable practice. The RRT should normally assess all the evidence together. Otherwise, it might be thought that the corroborative evidence is treated as a lesser category of evidence and that the RRT has not paid sufficient regard to it.

40 In our opinion, the Federal Magistrate was wrong to conclude that the RRT's actions amounted to jurisdictional error.

41 In our opinion, the appeal should be allowed, the orders made by the Federal Magistrate providing for the issue of a writ of certiorari and a writ of mandamus should be set aside. In lieu thereof there should be an order that the first respondent's application in the Federal Magistrates Court be dismissed and that the first respondent pay the costs of that application. The first respondent must pay the costs of the appeal.

I certify that the preceding forty-one (41) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justices North and Lander.

Associate:

Dated: 4 June 2010

IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY
GENERAL DIVISION **NSD 1374 of 2009**

ON APPEAL FROM THE FEDERAL MAGISTRATES COURT OF AUSTRALIA

BETWEEN:	**MINISTER FOR IMMIGRATION AND CITIZENSHIP** **Appellant**
AND:	**SZNSP** **First Respondent** **REFUGEE REVIEW TRIBUNAL** **Second Respondent**
JUDGES:	**NORTH, LANDER AND KATZMANN JJ**
DATE:	**4 JUNE 2010**
PLACE:	**SYDNEY**

REASONS FOR JUDGMENT

KATZMANN J

42 I agree with North and Lander JJ that the appeal must succeed. I also agree with their Honours' reasons and the orders they propose. I only wish to add some short observations of my own.

43 At [12] of his reasons the Federal Magistrate said:

> In the instant case the Tribunal did not find that the [first respondent] had lied. It found it difficult to believe a number of assertions that she had made but it did believe others. For example, it believed her important assertion that she was a member of the Communist Party and that she held some government position of the type described by her. It came to the view that her evidence had been fabricated only after a consideration of the cumulative effect of 'minor' concerns. It should have weighted the corroborative evidence against those concerns because it went to the heart of her claims and confirmed some aspects of the [first respondent's] story that the Tribunal also accepted, such as her employment by the local government.

44 There are a number of problems with this paragraph.

45

First, the Tribunal did in fact conclude that the first respondent had lied. With respect, the distinction the Federal Magistrate sought to draw between fabricating evidence and lying is illusory. It was a distinction without a difference. Counsel for the first respondent accepted that the Federal Magistrate was in error in this respect.

46 Secondly, it is not true that the Tribunal believed the applicant's assertion that she was a member of the Communist Party and held the government position she described. What the Tribunal did was to recite the substance of the first respondent's evidence but when it came to setting out its findings it made no such findings. Rather, it said:

> The Tribunal finds it difficult to accept that a public servant in China and an active member of the Chinese Communist Party would assist a Falun Gong practitioner when the potential consequences could be very serious; it is difficult to accept that a person in that position and with those political affiliations would want to risk their employment and ill-treatment for someone who is not a close friend, a relative or a family member.

47 Later in its reasons the Tribunal acknowledged it was "plausible" that the first respondent worked as a public servant and had been a member of the Chinese Communist Party.

48 Neither of these passages suggests that the Tribunal accepted the first respondent's assertions about those matters. Rather, the Tribunal's remarks formed part of its analysis of her claim based on a factual premise erected by the first respondent that it neither accepted nor rejected.

49 Thirdly, there is no logical reason why a tribunal of fact cannot conclude that a witness has lied after taking into account a number of matters each of which on their own might be considered "minor".

50 Fourthly, having reached such a conclusion, as French J said in *WAJQ v Minister for Immigration and Multicultural and Indigenous Affairs* [2004] FCA 1580 at [20]-[21], there is nothing illogical about deciding that evidence proffered as corroboration of an account found to be false deserves little or no weight. Here, where the credit of the first respondent was very much in issue, there was certainly nothing illogical or irrational in rejecting the

document she submitted to bolster it in the absence of any proof that the document was genuine or its contents unaffected or uninfluenced by her.

I certify that the preceding nine (9) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Katzmann.

Associate:

Dated: 4 June 2010