

Federal Court



Cour fédérale

Date: 20180302

Docket: IMM-1388-17

Citation: 2018 FC 222

Ottawa, Ontario, March 2, 2018

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

MUHAMMAD TARIQ MALIK

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Muhammad Tariq Malik worked for many years as a policeman in Karachi, Pakistan. Part of his work involved tackling gang violence and arresting gang members. Reporters in Pakistan have described him as a person who exposed corruption on the part of politicians and other prominent individuals. His name and photograph have appeared in a variety of news stories.

[2] Beginning in 2012, Mr Malik and his family started receiving threats. Twice, gunmen shot at vehicles in which his children were passengers. Mr Malik decided to flee Pakistan with his family and travel to Canada. Sadly, his wife died in 2015. Out of fear, Mr Malik did not return to Pakistan for the funeral, but heard through contacts there that threats against him were still being made.

[3] Mr Malik applied for refugee protection but was found to be excluded on the basis of his role in the Sindh Police force in Karachi, an organization known to have committed human rights violations. He then applied for a pre-removal risk assessment (PRRA), pointing out that he would likely not be safe anywhere in Pakistan. He provided evidence that eleven police officers had recently been killed in Pakistan for exposing criminals. He maintained that the police could not protect him or his family.

[4] The PRRA officer concluded that there was insufficient evidence supporting Mr Malik's application principally because Mr Malik did not intend to return to work as a police officer and he could likely live safely elsewhere in Pakistan than Karachi.

[5] Mr Malik submits that the officer's decision was unreasonable because the officer failed to take adequate account of evidence showing that state protection was unavailable to former police officers in Pakistan. Mr Malik asks me to quash the officer's decision and order another officer to reconsider his PRRA.

[6] I agree with Mr Malik that the officer's conclusion was unreasonable on the evidence. I will therefore grant this application for judicial review.

[7] The sole issue is whether the officer's decision was unreasonable.

II. The Officer's Decision

[8] The officer found that the evidence supporting Mr Malik's application was unpersuasive. In particular, the officer noted that Mr Malik did not intend to return to work as a police officer, he had left Pakistan more than four years earlier, the evidence did not specifically show that former police officers are targeted, and Mr Malik could likely live safely in, and readily move to, another major centre, such as Islamabad, Rawalpindi, Lahore, or Hyderabad. The officer noted that Pakistan is a diverse country, and that it would be possible to find employment and live anonymously in a large urban centre. In any case, Mr Malik had failed to show that state protection was unavailable to him since he had made no attempt to seek protection before he fled Pakistan.

[9] Responding to Mr Malik's request to consider the circumstances of his children, the officer acknowledged that the children's status in Canada was uncertain but found that this was a matter more relevant to an application on humanitarian grounds, not a PRRA.

III. Was the officer's decision unreasonable?

[10] The Minister submits that the officer considered the relevant evidence about the risks faced by police officers in Pakistan and reasonably concluded that there was no indication that former officers were targeted. Further, the Minister points out that the officer correctly noted that Mr Malik had not sought state protection elsewhere in Pakistan. Therefore, the officer's conclusion that Mr Malik did not face a risk to his life throughout Pakistan was not unreasonable, according to the Minister.

[11] I disagree with the Minister's submission.

[12] Mr Malik provided the officer with extensive evidence about the risks faced by police officers in Pakistan, corroborated by the threats his own family had received. The officer found that this evidence did not support the existence of threats to former officers. However, it did show that many of the police officers targeted were off-duty and in the company of their families when killed. Further, Mr Malik had presented evidence that the threats against him continued, even though he had left the country. Based on this evidence, I find that the officer did not reasonably assess the risk to Mr Malik as a former police officer tasked with responding to gang violence and exposing corruption in high places.

[13] Given that the officer's assessment of the overall risk to Mr Malik was deficient, it follows that the officer's finding that Mr Malik could live safely in various places in Pakistan was also unreasonable.

IV. Conclusion and Disposition

[14] The officer's analysis of the dangers faced by Mr Malik and his family did not take adequate account of the evidence showing that there was an ongoing risk to their lives in Pakistan. Accordingly, I find that the officer's decision was unreasonable and I will grant Mr Malik's application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-1388-17

THIS COURT'S JUDGMENT is that the application for judicial review is granted, and no question of general importance is certified.

"James W. O'Reilly"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-1388-17

STYLE OF CAUSE: MUHAMMAD TARIQ MALIK v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 17, 2017

JUDGMENT AND REASONS: O'REILLY J.

DATED: MARCH 2, 2018

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