Federal Court  Cour fédérale

Date: 20190109

Docket: IMM-2321-18

Citation: 2019 FC 24

Ottawa, Ontario, January 9, 2019

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

OMER MAHMOUD HUSSEIN IDRIS

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review by the Applicant, pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 of a Refugee Appeal Division [RAD] decision rendered April 19, 2018, determining the Applicant has an Internal Flight Alternative [IFA] to Khartoum [Decision].

II. Facts

[2] The Applicant is a citizen of Sudan. After graduating in Khartoum, the Applicant worked in Saudi Arabia in 2002. He returned to Sudan in 2010 and opened a coffee shop where he grew up. The Applicant alleged:

> [5] ...He was approached by security agents to cooperate with them by providing information on his customers [on September 13, 2010, RPD transcript]. He refused. On October 15, 2010, he was then approached by the "neighbourhood committee" who, along with security agents, forcibly took him to the security office and questions, threatened, and beat him. He was released 3 hours later. He was again taken by force on October 30, 2010 and held for 3 days and questioned and beaten....

[3] The Applicant testified at the RPD [Refugee Protection Division] hearing that a week after his release, municipal authorities closed his coffee shop. Security forces visited the Applicant's home in Sudan more than three times in 2011, but have had no contact with the Applicant's family since then. The Applicant stayed in Khartoum until his friend gave him an exit visa to Saudi Arabia on December 24, 2010. The Applicant applied for a US visa in December 2016; landed in New York on March 16, 2017; and took a bus for Canada. The RPD heard his claim on May 24, 2017. The RPD found an IFA in Khartoum and therefore rejected the Applicant's claim.

III. Decision under review

[4] The RAD agreed that the Applicant has an IFA in Khartoum. The RAD held:

> **RAD analysis** [most footnotes omitted]

[9] Having listened to the hearing and reviewed the evidence in this case I find that the RPD did not err in finding the Appellant has a viable IFA in Khartoum.

[10] The test for IFA asks two questions:

> (1) [T]he Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists.
>
> (2) [C]onditions in the part of the country [considered to be an IFA] must be such that it would not be reasonable, in all the circumstances, [including those particular to the claimant] for the claimant to seek refuge there.[3]

[3] *Rasaratnam* v. *Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.), at 709-710.

[11] With respect to the first prong of IFA test the RPD asked the Appellant about his political activities and profile. He testified before the RPD that he never had problems before this incident in 2010 and has never had any "political affiliation". He repeatedly indicated that he was not politically involved in Sudan. The RPD examined whether he is known or wanted by the security agents. The Appellant had testified that after he left Sudan in 2010, following the detention, his home was visited a number of times by security agents in 2011. However since then he has not indicated there has been any more visits or interest. His evidence before the RPD is that his wife and 3 children, as well as his extended family continue to live in the same city in Sudan.

[12] The RPD also asked about his ability to leave Sudan as it is indicated on his passport that he was able to obtain an exit visa. The Appellant testified that he was "scared" but was able to obtain one. The exit visa was issued on his passport bearing his name. The objective documentary evidence specifically refers to the method of obtaining an exit visa from Sudan. Exit procedures in Sudan are found in *The Passport and Immigration Act of 1994*, which states the following:

> 12. (1) Every person, who departs from the Sudan, shall have a valid exit visa…..
>
> (3) Exit visa shall not be granted to:(a) an alien, who holds special, or temporary residence permit,

> and is accused of an offence, or indebted, to any person, with an amount of money;
>
> (b) a Sudanese accused of an offence;
>
> (c) a Sudanese, who is convicted, more than once, of the offence of smuggling;
>
> (d) a Sudanese, against whom there is reasonable suspicion that he practices an activity hostile to the Sudan, or defamatory thereof, by any of by any of the acts;
>
> (e) a Sudanese, who cannot pay the costs of his journey, to the place he intends to go to, and the cost of his stay therein, and return to the Sudan;
>
> (f) a child who does not attain 18 years of age, save upon the approval of his guardian. (Sudan 1994)

[13] In this case it was accepted by the RPD that the Appellant had problems with the state security agents in 2010 due to his perceived and/or impugned political opinion. However, the Appellant was able to procure an exit visa shortly thereafter and it can be presumed that he was not found to meet any of the criteria as stated above. A review of the Appellant's testimony indicates that the RPD asked if he had problems obtaining an exit visa he said, "yes, I was scared, to go I had to ask them. I couldn't get it because I was scared that something would happen." No other evidence was adduced that indicates what problems he had, if any, in obtaining his exit visa.

[14] The RAD considered the more likely possibility that the Appellant was suspected of activities that are not enshrined in the *Passport and Immigration Act* and, rather, was suspected of unofficial activities.

[15] The Appellant's evidence before the RPD was that after the incidents in October 2010 he went to Khartoum where he stayed until December 2010 and then travelled to Saudi Arabia. The RPD asked the Appellant if he had any problems while in Khartoum and he indicated that he did not. The Appellant's testimony was that he avoided going out during this period. While the Appellant argues in his appeal memo that the RPD erred by not considering what *would* happen to him, I do not find that to be the case. In order to determine what would happen to the Appellant, in a forward looking analysis, the RPD correctly examined the Appellant's

profile and political activities and the contact his family has had with security agents since he left.

[16] There has been no contact or enquiries made about him since 2011 and such enquiries were made in his home city [deleted], over 400 km away from Khartoum. While it is true that the security service is national in scope, and is known for its brutality and human rights abuses the RPD correctly found that there is insufficient evidence to indicate that the Appellant would come to their attention. While it is unfortunate that he ran afoul of them in 2010 in his home city, the evidence does not suggest that they are interested in him or would be if he were to return. The RAD accepts that he was a target of convenience in this situation and may have had value as a local informant. However in this case the Appellant would be returning to another city in a different region.

[17] He was able to leave the country and his family that remains in Sudan has not reported any problems or enquiries since 2011. Given the significant passage of time I find that the Appellant is no longer of value to the security forces he feared in his home community, on a balance of probabilities. I find that the Appellant does not face a serious possibility of persecution if he were to return to the proposed IFA.

[18] While the Appellant submits that the reason no one has made enquires may be because the state security knows he out of the country, this also assumes that the Appellant was allowed to leave the country on an exit visa. In this case I find it unlikely that the state security is aware of his whereabouts and equally unlikely that he is a person of interest to the authorities on a balance of probabilities.

[19] The second prong of the IFA test considers the conditions in the proposed IFA based upon the particularities of the Appellant. In this case the RPD considered the population of Khartoum (over 5 million people) and the particular education background of the Appellant. The RPD also considered the evidence that he and his family could relocate to Khartoum where there are schools, religious institutions, and other amenities particular to a large city. Having reviewed the Appellant's testimony as well as the objective evidence I agree with the RPD that the proposed IFA is reasonable.

[20] The Appellant cites the objective evidence that refers overwhelmingly to current regime in Sudan and its treatment of real and perceived political opponents. While I agree with the

> Appellant's submissions on this point, I find that given the particular profile of the Appellant as well as the significant passage of time, the Appellant does not have a profile such that he would likely come to the attention of the authorities. For these reasons I find that I agree with the RPD and find that the Appellant has an IFA to Khartoum.

IV. Issues

[5] The Applicant submits the following three issues:

a) Did the RAD err in its determination that Mr. Idris has an internal flight alternative to Khartoum in Sudan?

b) Did the RAD err in its failure to consider a ground for the claim?

c) Should the matter be referred back to the RAD for redetermination?

V. Standard of review

[6] In *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] at paras 57 and 62, the Supreme Court of Canada held that a standard of review analysis is unnecessary where "the jurisprudence has already determined in a satisfactory manner the degree of deference to be accorded with regard to a particular category of question." A decision by the RAD reviewing a finding by the RPD is to be reviewed by this Court on the standard of reasonableness. The Federal Court of Appeal stated in *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 that the RAD itself is to review the RPD's findings on the standard of correctness, but may defer to the RPD on credibility findings "where the RPD enjoys a meaningful advantage".

[7] This Court has determined that a review of the RAD's determination of the availability of an IFA is entitled to deference and that an applicant has a high onus to show it is unreasonable: *Pidhorna v Canada (Minister of Citizenship and Immigration)*, 2016 FC 1, per Kane J at para 39: "[t]he test for an IFA is well established. There is a high onus on the applicant to demonstrate that a proposed IFA is unreasonable *(Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164, [2000] FCJ No 2118 (FCA))."

[8] The parties agree, as do I, that two aspects of an IFA must be considered: (1) risk of persecution, and (2) reasonableness of the claimant moving to the IFA: *Hamdan v Canada (Minister of Immigration, Refugees and Citizenship)*, 2017 FC 643, per Crampton CJ [*Hamdan*]. The following test, stated by the Chief Justice, was applied by the RAD as seen in para 10 of the RAD's reasons, quoted above:

> [10] There are two parts to the test for an IFA.
>
> [11] First, in the context of section 96 of the IRPA, the RPD must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which an IFA exists (*Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589, at 593 (FCA) [*Thirunavukkarasu*]). In the context of section 97, the corresponding test is that the RPD must be satisfied that the claimant would not be personally subjected to a danger described in paragraph 97(1)(a), or to a risk described in paragraph 97(1)(b).
>
> [12] Second, for the purposes of both section 96 and section 97 of the IRPA, the RPD must determine that, in all of the circumstances, including the circumstances particular to the claimant, conditions in the part of the country where a potential IFA has been identified are such that it would not be objectively unreasonable for the claimant to seek refuge there, before seeking protection in Canada (*Thirunavukkarasu*, above, at 597). In this regard, the threshold for objective unreasonableness is "very high" and "requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to" the area where a potential IFA has been

> identified (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164, at para 15 (FCA) [*Ranganathan*]). Stated differently, objective unreasonableness in this context requires a demonstration that the claimant would "encounter great physical danger or […] undergo undue hardship in travelling" to the IFA (*Thirunavukkarasu*, above, at 598). In addition, "actual and concrete evidence of such conditions" must be adduced by the claimant for refugee protection in Canada (*Ranganathan*, above, at para 15).

[9] In *Dunsmuir*, above at para 47, the Supreme Court of Canada explained what is required of a court reviewing on the reasonableness standard of review:

> [47] A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

[10] The Supreme Court of Canada also instructs that judicial review is not a line-by-line treasure hunt for errors; the decision is to be approached as an organic whole: *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34. Further, a reviewing court must determine whether the decision, viewed as a whole in the context of the record, is reasonable: *Construction Labour Relations v Driver Iron Inc*, 2012 SCC 65; see also *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62.

VI. Analysis

A. *Did the RAD err in its determination that Mr. Idris has an internal flight alternative to Khartoum in Sudan?*

[11] The Applicant makes four submissions on this issue.

[12] First, the Applicant submits the RAD erred because it speculated. He says that when a tribunal casts doubt on the credibility of a witness, not because of internal inconsistencies in the evidence, but rather because of inferences the tribunal draws concerning the plausibility of the witness' testimony, the inferences drawn must be reasonable. A tribunal may not base its decision on assumptions and speculations for which there is no evidentiary basis. If the tribunal's findings of plausibility are based on inferences not reasonably open to it, the decision will be quashed. I generally agree with the Applicant's summary in this respect.

[13] In this connection, the Applicant submits the RAD's determination that the Applicant is not of interest to state authorities due to the "significant passage of time" and because of his profile, is a flawed analysis. The Applicant submits there is no evidence suggesting the passage of time has that result. With respect I disagree. In my view, the passage of a considerable period of time is a permitted inference because it is a fact-based consideration, i.e., it is based on the length of time demonstrated in the evidence and record. This is also a rational and common-sense inference for the RPD to make as but one of many factors supporting its conclusion on the availability of an IFA.

[14] Second, the Applicant submits the RAD failed to consider the totality of the exit visa evidence. The RAD determined the Applicant is not of interest to Sudanese authorities in part also because of his ability to exit the country. The Applicant testified during the RPD hearing he had assistance from an individual at the airport that helped him leave Sudan. In this connection,

it is worth recalling that the Applicant has the onus to rebut the proposed IFA determination at the RPD and also at his appeal to the RAD. The fact is that the Applicant was able to obtain an exit visa. On this evidence, it was open to find his departure did not engage any of the specific restrictions on exiting Sudan. Accordingly, I am not persuaded the RAD erred in concluding as it did that it was more likely that he was suspected only of unofficial activities, and not of activities set out in Sudan's exit procedures, enshrined in *The Passport and Immigration Act of 1994*.

[15] Third, the Applicant submits that in order to find an IFA, the Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in that part of the country in which the IFA is said to exist. Further, the Applicant says conditions in that part of the country must be such that it would not be unreasonable, in all the circumstances, for the claimant to seek refuge there. I agree with this summary of the approach, which, as noted, is the same as that adopted by the RAD and set out in *Hamdan*, per Crampton CJ.

[16] I agree with the Applicant that, as in *Ahmed v Canada (Minister of Employment and Immigration)* (1993), 156 NR 221 (FCA), per Marceau JA at para 5, the mere fact that the Applicant lived a short while in Khartoum may not of itself be sufficient to decide he could rely on state protection. However on review of the record I am not persuaded the RAD acted unreasonably in making its RAD determination; rather, the Applicant did not make out the onus on him to show the RAD's IFA determination was unreasonable on either of the two tests. As to the first test, Khartoum is a city of five million people, located hundreds of kilometers from the Applicant's home. The passage of time was reasonably considered as already noted, six years had passed without incident to his family.

[17] On the second branch of the test, the Applicant stated his fear of returning to Sudan, even if relocated to Khartoum, because of his belief that Sudan's security forces would continue to pursue him, and his belief that he and his family would come to their attention by word of mouth. In this respect, the Applicant submitted documentary evidence of country-condition reports to support his fear of the security forces. I am not persuaded that this evidence was overlooked or treated unreasonably. The RAD recognized the security-forces regime in Sudan is known for its brutality and human rights abuses, facts supported by country-condition documentation that also confirmed its nationwide operation.

[18] But on the record, it was open to the RAD to agree with the RPD that the Applicant was not persecuted, rather he was asked as a shop owner to spy on his customers and punished for not doing so. The shop is closed: having the shop was the reason the security forces were interested in the Applicant; that circumstance no longer applies. The RAD in my respectful view acted reasonably in agreeing with the RPD that the Applicant was not at risk of persecution in the proposed IFA *on a forward looking basis*. It was reasonably open on the record for the RAD to find there was insufficient evidence indicating the Applicant would come to the security service's attention. That is what the RPD and RAD found on their reviews.

[19] Fourth, the Applicant submits the RAD failed to consider Sudan itself, through its security force, was the agent of persecution. In this respect he relied upon *Amit v Canada (Minister of Citizenship and Immigration)*, 2012 FC 381, per Martineau J at para 11: "…I would add that the existence of an IFA is mostly fact driven. In passing, the general proposition that it would be an error of law to affirm that an IFA is available when persecution comes from the

state itself or agents of the state, such as the police force, has not been seriously challenged by the respondent in this proceeding." See also *Li v Canada (Minister of Citizenship and Immigration),* 2014 FC 811, per Shore J at para 27.

[20] This question involves, once again, a fact-driven analysis. On the evidence, it was open for the RAD to agree with the RPD that the Applicant was not persecuted, rather he was asked as a shop owner to spy on his customers and punished for not doing do. The finding that on a forward looking basis the Applicant would not likely be persecuted is the answer to this aspect of the Applicant's allegation of unreasonableness. The RAD Decision in this respect falls within the range of outcomes that are defensible on the facts and law.

B. *Did the RAD err in its failure to consider a ground for the claim?*

[21] The Applicant cites *Vilmond v Canada (Minister of Citizenship and Immigration),* 2008 FC 926, per Beaudry J at para 18, whose statement of the law I accept:

> [18] This Court has found that the obligation to consider all grounds for claiming refugee status extends even to ground[s which the claimant may have failed to identify. In *Viafara v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 1526, at paragraph 6, [2006] F.C.J. No. 1914, Justice Dawson wrote:
>
> > [6] However, in *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689 at pages 745 and 746, the Supreme Court of Canada confirmed that the Board must consider all of the grounds for making a claim to refugee status, even if the grounds are not raised during a hearing by a claimant. This flows from the direction at paragraph 67 of the United Nations High Commissioner for Refugees (UNHCR) Handbook on Procedure and Criteria for Determining Refugee Status that it is not the duty of a claimant to identify the reasons for their persecution. [Emphasis added]

> [Emphasis in original.]

[22] The Applicant also cites *Ajelal v Canada (Minister of Citizenship and Immigration)*, 2014 FC 1093, per Diner J, where this Court considered a decision where the Board failed to consider all the grounds made in the claim, under sections 96 or 97. Justice Diner said at paras 21–22:

> [21] Justice Rennie wrote about this error of procedural fairness in *Varga v Canada (Citizenship and Immigration)*, 2013 FC 494:
>
> > [5] Refugee claims involve fundamental human rights. Accordingly, it is critical that the Board consider any ground raised by the evidence even if not specifically identified by the claimant: *Canada (Attorney General) v Ward*, [1993] 2 SCR 689; *Viafara v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1526, para 13. It is, in most circumstances, a serious and potentially fatal error to ignore part of a refugee claim: *Mersini v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1088, para 6.
> >
> > [6] The failure of the Board to address a ground of persecution, raised on the face of the record, is a breach of procedural fairness, reviewable on a correctness standard. Reasonableness and deference can have no role when there is no assessment of the evidence.
>
> [22] In the present case, the Board did not consider the underlying basis of the Refugee claim, on any of the enumerated grounds in s. 96. It is not for this Court to analyze and adjudicate the refugee claim; that is the role of the Board, which it did not undertake in this case.

[23] The Applicant submits that the RAD failed to consider his allegation that he faces persecution on the basis of his ethnicity as a member of the Beja tribe. In this respect, the country-condition evidence indicates the central government has marginalized this tribe, the tribe

has not received representation in the government, and has experienced systemic poverty and mismanagement. The Applicant submits his membership in the Beja tribe and the tribe's political actions, coupled with the armed rebellion between the tribe's rebel groups and the central government, is relevant to his claims of persecution and discrimination. He points to the fact that in his Basis of Claim narrative he identifies himself as a member of this Beja tribe minority group. The Applicant refers to his opposition to the government's neglect of the Beja tribe and its region.

[24] The problem with this argument is that the Applicant, represented by counsel on both occasions, did not raise this issue before the RPD, and in addition did not raise it in his appeal to the RAD. Instead, he raises it for the first time in this Court. In my respectful view, this failure is fatal to this aspect of the Applicant's case: *Dahal v Canada (Minister of Citizenship and Immigration)*, 2017 FC 1102 [*Dahal*], per Crampton CJ; *Dibia v Canada (Minister of Citizenship and Immigration)*, 2017 FC 1076, per Mactavish J; and *Dovha v Canada (Minister of Citizenship and Immigration)*, 2016 FC 864 [*Dovha*], per Zinn J.

[25] In particular, in *Dovah*, Zinn J held at paras 4, 6:

> [4] The Minister submits that there was no obligation on the RAD to consider this ground because it was not raised as a ground of appeal. The Minister relies on Rule 3(3)(g)(i) of the *Refugee Appeal Division Rules*, SOR/2012-257, which provide that an appellant's record "must contain … a memorandum of argument that includes full and detailed submissions regarding the errors that are the grounds of the appeal." The Minister also relies on this Court's judgment in *Dhillon v Canada (Minister of Citizenship and Immigration),*2015 FC 321, which held that the RAD is not required to consider an argument that was not raised before it and that to do so would be contrary to the statutory scheme and established jurisprudence.

> ...
>
> [6] Even though the RPD did not deal with this purported ground of risk, it is incumbent on an appellant to raise it on appeal.

[26] Similarly in *Dahal*, Crampton CJ held at paras 30–31:

> [30] Pursuant to Rule 3(3)(g) of the *Refugee Appeal Division Rules*, SOR/2012-257 [the **"*Rules*"**], an appellant's record must include "a memorandum that includes full and detailed submissions regarding: (i) the errors that are the grounds of the appeal, (ii) where the errors are located in the written reasons for the [RPD's] decision that the appellant is appealing or in the transcript or in any audio or other electronic recording of the [RPD's] hearing …" In my view, this makes it clear that the RAD is required to focus on the specific errors that an appellant has alleged have been made by the RPD.
>
> [31] Indeed, this would be consistent with the principle that the RAD should conduct "its own analysis of the record to determine whether, as submitted by the appellant, the RPD erred" (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93, at para 103 **["*Huruglica*"]**, emphasis added).
>
> [Emphasis in original.]

[27] In my respectful view, this issue is determined by the Federal Court of Appeal in *Canada (Minister of Citizenship and Immigration) v RK*, 2016 FCA 272, per Dawson JA at para 6:

> [6] In my view, this appeal turns on a single issue: the failure of the claimants, the respondents in this Court, to request a *de novo* hearing before the Appeal Division. Because the claimants did not request that the Appeal Division conduct a *de novo* hearing on all of the evidence, they were precluded from raising in the Federal Court any issue relating to the Appeal Division's failure to hold a *de novo* hearing. This is because the reasonableness of the Appeal Division's decision cannot normally be impugned on the basis of an issue not put to it particularly where, as in the present case, the new issue raised for the first time on judicial review relates to the Appeal Division's specialized functions or expertise (*Alberta (Information and Privacy Commissioner) v. Alberta Teachers'*

> *Association*, 2011 SCC 61, [2011] 3 S.C.R. 654 at paragraphs 23-25).

[28] Indeed, at the RAD he raised one issue only, namely: "Did the RPD err in determining that the Applicant has a viable IFA in the capital city of Sudan, Khartoum?" Therefore, in my respectful view, the Applicant is precluded from raising the Beja tribe issue before this Court on judicial review.

[29] There is no need to deal with the third issue raised by the Applicant given my conclusions to this point.

[30] Overall, in my respectful view and notwithstanding the able submissions of counsel, I am not persuaded the RAD ignored evidence or committed reviewable errors in upholding the RPD's IFA determination. Rather, the RAD properly engaged in an independent review of the matter that entailed weighing the evidence on the two aspects of an IFA determination. Stepping back and looking at the Decision as an organic whole, in my respectful view, the RAD acted reasonably in upholding the finding that the Applicant has an IFA in Khartoum. The Applicant did not meet the high onus required to show this determination was unreasonable. The RAD Decision meets the test of justification, transparency, and intelligibility within the decision-making process. Overall I have concluded that the Decision falls within a range of possible, acceptable outcomes that are defensible in respect of the facts and law, pursuant to *Dunsmuir* at para 47. Therefore judicial review must be dismissed.

VII. Certified question

[31] The Applicant proposed the following question for certification:

> In terms of the obligation of the Refugee Protection Division of the Immigration and Refugee Board of Canada to consider all grounds for a refugee claim, even those grounds which the claimant failed to identify, because of the fundamental human rights principles engaged, as recognised in *Vilmond v Canada (Minister of Citizenship and Immigration)*, 2008 FC 926 and *Aljelal v Canada (Minister of Citizenship and Immigration)*, 2014 FC 1093, does this obligation extend to the Refugee Appeal Division of the Immigration and Refugee Board of Canada?

[32] The Respondent opposes certification on the basis that the question is not dispositive and, in any event, has already determined by the jurisprudence. I agree. Therefore no question will be certified.

JUDGMENT in IMM-2321-18

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed, no question is certified, and there is no order as to costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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