

Federal Court



Cour fédérale

Date: 20190903

Docket: IMM-6438-18

Citation: 2019 FC 1128

Ottawa, Ontario, September 3, 2019

PRESENT: Mr. Justice Peter Annis

BETWEEN:

MOHAMMAD ATIQUE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of the oral decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada, dated November 10 2018 brought pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] For the reasons that follow, the application is rejected.

I. Statement of Facts

[3] The Applicant alleges that he was born into a family that belonged to the Sunni branch of Islam. As he grew up he became interested in Shia branch of Islam. In his mid-twenties, he immigrated to the Kingdom of Saudi Arabia (KSA) where resided from 2000 to 2013.

[4] During the time he was living in Kingdom of Saudi Arabia he married his wife in Pakistan and had children with her. However, the family remained in Pakistan in the home village where the Applicant would visit from time to time.

[5] The Applicant moved to the United States in 2014 where he lived until 2016. While there, he married an American citizen who had plans for her to sponsor him, but the marriage was short lived, and they divorced before those plans could be carried out.

[6] At the end of August 2016, the Applicant returned to Pakistan. According to the documents, it appears that on September 3rd, 2016 he officially converted or registered as a Shia and immediately received threats.

[7] He states that on September 9th, some unidentified persons stopped his car, threatened him and his family and assaulted him. They are described as unknown persons throughout the documentation. During the hearing, the Applicant testified that he has no knowledge of who his assailants were or their relation to any religious organizations.

[8] On September 21, 2016, the Applicant returned to the United States. A short while after, he made his way to Canada, where he made a refugee claim. Before he left Pakistan, his wife had moved in with their in-laws situated some 200 km away. The Applicant notes in his narrative that everyone in the area knows the whereabouts of his in-laws.

[9] In February 2017, the Applicant amended his narrative and at the same time submitted a letter from his sister-in-law. The letter states that about 3 to 4 days after the Applicant left for United States, his sister-in-law informed him that the Sunni activists had been by the in-laws house to ask about him and that she did not tell them where the family members were residing for fear that they would be harmed.

II. The Member's decision

[10] The panel Member concluded that the amendment and letter were not credible and were embellishments added to bolster his claim. On that basis she concluded that no unknown persons came to the Applicant's sister-in-law's house looking for him after he had left his home village.

[11] The adverse credibility finding was based upon several observations. First, he was unable to explain why this information was not included when he signed his narrative in light of his testimony when he had been in constant contact with his wife. He pointed to paragraphs which contained inconsistent information.

[12] In the 2017 amendment, the sister-in-law states (with my emphasis) "we are taking care of his children and wife as they are under constant threat by Sunni activists who come to our door step (sic) a few times and were inquiring about antique and his family whereabouts (sic).

We always tell them we know nothing about their location.” This is followed up by expression of concerns about kidnapping of the children in both his wife’s and sister-in-law’s letters, while no mention of which was made in the BOC.

[13] In his Basis of Claim (BOC), he stated with (my emphasis) that “unknown persons have been to my in-laws’ homes to look for me” and that she would state that “my wife and children were living in the home to take care of her because she was not well”.

[14] Finally, the panel Member noted that there was no evidence in any of the documents for the Applicant’s testimony where the alleged attackers on September 9, 2016 were part of any group that was mentioned by the Applicant, who indicated he did not know who the assailants were.

[15] The panel Member ultimately concluded that there was no credible or reliable evidence that anyone had been seeking the Applicant since the one incident September 2016 and that on the balance of probabilities no one would be seeking him out if returned to Pakistan.

[16] The panel Member also considered the alternative conclusion that Islamabad was a reasonable internal flight alternative (IFA). She rejected evidence concerning religious attacks on a bus carrying Sunnis in 2008 as being relevant. She further found that there was no evidence before her that people would know the Applicant had converted unless he chose to tell them.

[17] In addition, the transcript demonstrates that the RPD Member questioned the Applicant about religious extremist groups having the capability to track an individual throughout Pakistan, which the Applicant acknowledged would be difficult.

[18] The panel Member further concluded therefore that Islamabad would be satisfactory IFA in light of the fact that he had demonstrated being able to relocate to several different countries, including the fact that language would be no issue.

III. Standard of Review

[19] The Applicant submitted that the overriding issue was the credibility finding that is assailants would be seeking him if he returned to Pakistan, which he acknowledged was a finding of fact. Such findings are subject to a highly deferential standard of reasonableness that can only be set aside in the clearest of cases: (see *Njeri v Canada (Citizenship and Immigration)*, 2009 FC 291 at para 11; *Kallab v Canada (Citizenship and Immigration)*, 2019 FC 706 at paras 40-41 [*Kallab*]; *Jean Pierre v Canada (Immigration and Refugee Board)*, 2018 FCA 97 at paras 51-53; *Housen v Nikolaisen*, 2002 SCC 33).

[20] The Court disagrees that the impugned credibility finding is causally related to the IFA finding, which decision is also a finding of fact based upon the assessment of country condition documentation and subject to the same highly deferential standard of reasonableness.

IV. Analysis

[21] The Applicant argued that the Member capriciously found that no one would be seeking him if he returned to Pakistan. His principal submission is that in his BOC he had disclosed that persons were seeking him since he left Pakistan as indicated in a letter received from his spouse. I reject this submission because as indicated above, there are significant inconsistencies in the supporting allegations contained in letters from his sister-in-law and his spouse from those contained in his BOC.

[22] Alternatively, the Applicant argues that because of this error in the credibility finding of the panel Member, the IFA submission must also be reconsidered. I also reject this submission. First as indicated, I find that the adverse credibility finding relating to his claim that assailants were seeking him cannot be shown to be an error as it is sufficiently supported by the evidence.

[23] In addition, I find the conclusion that Islamabad would be a reasonable IFA was not contingent upon any credibility finding of his being sought by unknown assailants at his sister-in-law's residence. Rather, it was a distinct issue based upon the country condition documentation and the reasonable finding that no one would know that the Applicant had converted in a city the size of Islamabad unless he disclosed the information.

[24] Accordingly, the application is rejected.

[25] No questions are certified for appeal.

THIS COURT ORDERS that:

1. The application is rejected.

“Peter Annis”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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