Federal Court  Cour fédérale

Date: 20191028

Docket: IMM-1365-19

Citation: 2019 FC 1345

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Montréal, Quebec, October 28, 2019

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

MAMADOU TRAORE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], of a decision dated February 8, 2019, in which a senior immigration officer [officer] rejected the applicant's application for a Pre-Removal Risk Assessment [PRRA] on the basis that the applicant would not be subjected to a danger of persecution or torture, a risk to his life or a risk of cruel and unusual treatment or

punishment if returned to his country of nationality, Mali. The style of cause is amended to reflect the fact that the respondent is the Minister of Citizenship and Immigration.

[2] In short, the applicant argues that the officer's reasons are inadequate and that his decision is not supported by the evidence. In addition, the officer failed to consider the high risk in Mali or to mention the existence of an [TRANSLATION] "administrative moratorium". The officer's decision also violates sections 7 and 12 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [Charter] and Article 3 of the 1984 United Nations *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

[3] No intervention is warranted in this case.

[4] PRRA applications involve questions of mixed fact and law, so the standard of review applicable to them is reasonableness *(Flores Carillo v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94 at para 36; *Huang v Canada (Citizenship and Immigration)*, 2018 FC 940 at para 10). It must be noted here that the risks alleged by the applicant are generalized and that these are specifically excluded by subparagraph 97(1)(b)(ii) of the IRPA. It was therefore reasonable for the officer to conclude that the applicant had failed to demonstrate that he would face a greater risk than the rest of the population *(Prophète v Canada (Citizenship and Immigration)*, 2008 FC 331 at para 23; *Pulako v Canada (Citizenship and Immigration)*, 2011

FC 1048 at para 30; *Ventura v Canada (Citizenship and Immigration)*, 2010 FC 871 at para 25; *Ayikeze v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1395 at para 22).

[5] The applicant left Mali in 2006 and lived in the United States from 2006 to 2017, and then in Burkina Faso from 2017 to 2018, before coming to Canada to claim refugee status. His most recent claim for refugee protection was determined to be ineligible. Because he is inadmissible for serious criminality, he cannot argue administrative deferral to challenge the reasonableness of the officer's decision (paragraph 230(3)(c) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227). Furthermore, the failure to mention the moratorium with respect to Mali is not a reviewable error because a PRRA decision and the eventual enforcement of a removal order are two different things (*Lalane v Canada (Citizenship and Immigration)*, 2009 FC 5 at para 32).

[6] In this case, the officer considered the evidence on the record. The applicant did not clearly establish a fear of torture or any personalized grounds. In his form, the applicant simply stated that he was being sought by the Malian authorities and that he would file the wanted notices on the record, which he never did. The officer further notes that being summoned by the police is evidence of nothing whatsoever. The officer also notes that the applicant filed medical documents, including prescriptions, but did not explain their relevance or how they might demonstrate any kind of risk. The applicant also filed several articles about the precarious situation in Mali, which were also considered by the officer.

[7] Nor was there any violation of procedural fairness. The officer was not required to provide the applicant with an oral hearing or invite him to supplement his record. It suffices to consider the adequacy of the reasons together with the reasonableness of the officer's finding *(Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 14; *Alexander v Canada (Citizenship and Immigration)*, 2012 FC 634 at para 6). To reiterate, the brief reasons provided by the officer are an adequate response to the limited evidence filed by the applicant.

[8] Finally, although "to deport a refugee to face a substantial risk of torture would generally violate s. 7 of the *Charter*" (*Suresh v Canada (Minister of Citizenship and Immigration),* 2002 SCC 1 at para 5) [emphasis added], given that the applicant is not a refugee and the officer reasonably determined that there was no serious risk of torture or cruel treatment in the event of his removal to Mali, the rights guaranteed by the Charter are not applicable in this case. I would add that the issue raised by the applicant seems premature as he has yet to receive a Notice to Appear to set a date for his removal to Mali.

[9] Accordingly, the application for judicial review is dismissed. There is no question of general importance to be certified.

JUDGMENT in IMM-1365-19

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to reflect the fact that the respondent is the Minister of Citizenship and Immigration;

2. The application for judicial review is dismissed;

3. There is no question of general importance to be certified.

"Luc Martineau"
Judge

Certified true translation
This 19th day of November, 2019.

Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1365-19
STYLE OF CAUSE:	MAMADOU TRAORE v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	OCTOBER 21, 2019
JUDGMENT AND REASONS:	MARTINEAU J.
DATED:	OCTOBER 28, 2019

APPEARANCES:

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