

Federal Court



Cour fédérale

**Date: 20211021**

**Docket: IMM-6256-20**

**Citation: 2021 FC 1119**

**Ottawa, Ontario, October 21, 2021**

**PRESENT: The Honourable Mr. Justice Fothergill**

**BETWEEN:**

**RAWAN ALFAOURI  
ATHILA ALKOTOP**

**Applicants**

**and**

**THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Rawan Alfaouri and Athila Alkotop are citizens of Jordan and former residents of Saudi Arabia. Ms. Alfaouri holds Jordanian citizenship by birth, while her mother-in-law Ms. Alkotop holds Jordanian citizenship through naturalization. Ms. Alfaouri's spouse and Ms. Alkotop are ethnic Palestinians whose origins lie in Syria.

[2] Ms. Alfaouri and Ms. Alkotop seek judicial review of a decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board. The RPD determined that they are neither Convention refugees nor persons in need of protection pursuant to ss 96 and 97 of the *Immigration and Refugee Protection Act, SC 2001, c 27*.

[3] Ms. Alfaouri's and Ms. Alkotop's refugee claims were heard together with eight other claims that were brought by their immediate and extended family members. Six of the claims were successful, while four were not.

[4] The only fear of persecution identified by Ms. Alfaouri was separation from her family. The RPD reasonably found that family separation, while difficult, does not bear a nexus to a Convention ground or establish that a person is in need of Canada's protection. The only fear of persecution identified by Ms. Alkotop was premised on the possible loss of her Jordanian citizenship, which the RPD reasonably found not to be a credible risk.

[5] The application for judicial review is therefore dismissed.

## II. Background

[6] Ms. Alfaouri and Ms. Alkotop arrived in Canada from the United States of America in January 2019 and claimed refugee protection upon arrival. Their claims were joined with those of other family members. All 10 refugee claimants sought protection against Jordan, Syria, Saudi Arabia, and/or the United States.

[7] The RPD accepted the refugee claims of six family members on the grounds that they were ethnic Palestinians who had previously resided in Saudi Arabia and who had only Syrian travel documents. The RPD was satisfied that these family members faced a serious possibility of persecution in Syria and/or Saudi Arabia. The remaining four claims, including those of Ms. Alfaouri and Ms. Alkotop, were rejected.

### III. Issue

[8] The sole issue raised by this application for judicial review is whether the RPD's decision was reasonable.

### IV. Analysis

[9] The RPD's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only if “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (Vavilov at para 100). These criteria are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (Vavilov at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[10] Ms. Alfaouri is the only member of her immediate family who has not been granted refugee protection in Canada. She argued before the RPD that the separation from her spouse and children that would result from the rejection of her refugee claim was itself a human rights issue. The RPD found that family separation presents no nexus to a Convention ground, and that Ms. Alfaouri could not demonstrate any other personalized or persecutory risk necessitating Canada's protection.

[11] Ms. Alfaouri relies on *Shkabari v Canada (Citizenship and Immigration)*, 2012 FC 177 [*Shkabari*], which concerned a blood feud in Albania. In *Shkabari*, the RPD rejected the applicants' assertion that families who engage in blood feuds constitute a "particular social group", and found they could not establish a nexus to a Convention ground of persecution. Justice John O'Keefe disagreed, holding that the applicants fell within the scope of the "particular social group" category described by the Supreme Court as "groups defined by an innate or unchangeable characteristic" and, to a lesser extent, also the category of "groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association" (at para 54, citing *Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at para 70).

[12] However, the fear of persecution the applicants faced in *Shkabari* arose specifically from their association within the social group of individuals who marry contrary to Albanian custom. Here, Ms. Alfaouri does not say she is at risk because of her association with other members of her family; only because she may be separated from them.

[13] This case therefore bears a closer resemblance to *Nazari v Canada (Citizenship and Immigration)*, 2017 FC 561 [*Nazari*], where Justice Sylvie Roussel held as follows (at para 20):

While Canadian immigration laws may strive to facilitate family unity in certain circumstances such as those contemplated by section 25 of the IRPA, Canadian refugee law does not recognize any fundamental right for refugee claimants to live together (*Chavez Carrillo v Canada (Citizenship and Immigration)*, 2012 FC 1228 at paras 15, 17; *Jawad v Canada (Citizenship and Immigration)*, 2012 FC 1035 at para 10; *Canada (Minister of Citizenship and Immigration) v Khan*, 2005 FC 398 at para 11). Moreover, the concept of family unity does not relieve a refugee claimant of the *onus* of demonstrating that he or she falls within the definition of “Convention refugee” (*Garcia Garcia v Canada (Citizenship and Immigration)*, 2010 FC 847 at para 15).  
[Emphasis original.]

[14] As Justice Roussel held in *Nazari*, the RPD’s conclusion that Ms. Alfaouri’s fear of family separation did not amount to well-founded fear of persecution or other harm is consistent with this Court’s jurisprudence. It is therefore reasonable.

[15] The RPD rejected Ms. Alkotop’s claim based on country condition evidence indicating that Jordan ended the practice of revoking the citizenship of Palestinians in 2015, particularly with respect to those who possess a full passport and national identity number. Ms. Alkotop has been issued both documents. She has not challenged the RPD’s analysis of country condition reports or its conclusion that she is not at risk of losing her Jordanian citizenship.

[16] Ms. Alfaouri and Ms. Alkotop nevertheless maintain that the RPD unreasonably failed to consider other risks they might face in Jordan as women of Palestinian origin, even if these risks were never raised.

[17] The onus is on a refugee claimant to establish a subjective and objective fear of persecution (*Kaur v Canada (Citizenship and Immigration)*, 2020 FC 1130 at para 38). The documentary evidence that concerns the discrimination faced by stateless Palestinians in Jordan does not establish that Ms. Alfaouri and Ms. Alkotop would face similar persecution as citizens of Jordan. While the RPD has an obligation to consider all possible grounds for a claim that are raised by the evidence, it is not required to go beyond the evidence to find possible grounds for a claim (*Mancia v Canada (Citizenship and Immigration)*, 2011 FC 949 at para 9).

#### V. Conclusion

[18] The RPD reasonably found that Ms. Alfaouri and Ms. Alkotop had failed to meet their onus of establishing they are Convention refugees or persons in need of Canada's protection. Ms. Alfaouri's legitimate concern about family separation is better addressed through other available immigration processes.

[19] The application for judicial review is dismissed.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed.

"Simon Fothergill"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6256-20

**STYLE OF CAUSE:** RAWAN ALFAOURI AND ATHILA ALKOTOP v  
THE MINISTER OF IMMIGRATION, REFUGEES  
AND CITIZENSHIP

**PLACE OF HEARING:** BY VIDEOCONFERENCE BETWEEN  
MISSISSAUGA, TORONTO AND OTTAWA,  
ONTARIO

**DATE OF HEARING:** OCTOBER 5, 2021

**REASONS FOR JUDGMENT  
AND JUDGMENT:** FOTHERGILL J.

**DATED:** OCTOBER 21, 2021

**APPEARANCES:**

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