

Federal Court



Cour fédérale

Date: 20230724

Docket: IMM-7518-22

Citation: 2023 FC 1008

[ENGLISH TRANSLATION]

Ottawa, Ontario, July 24, 2023

PRESENT: The Honourable Mr. Justice McHaffie

BETWEEN:

AHMAD MOUSSA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ahmad Moussa is seeking judicial review of a decision by the Refugee Appeal Division [RAD] dismissing his application for refugee protection. The RAD found that Mr. Moussa had a flight alternative within his country, Lebanon. This conclusion is determinative in any claim for refugee protection under section 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[2] Mr. Moussa argues that the RAD conclusion regarding the first prong of the internal flight alternative [IFA] analysis is unreasonable. He alleges, in particular, that the RAD erred by dismissing his belief that an agent of persecution, a criminal who had suggested he steal cars and who blames Mr. Moussa for his arrest, was connected to Hezbollah. This issue is relevant to the RAD's findings (i) that there was no connection between the alleged risk and one of the Convention grounds; and (ii) that the criminal was not motivated to pursue Mr. Moussa to Beirut or Nabatieh because the risk was local. He also alleges that the RAD speculated as to the criminal's motivation, which it should not have. I note that Mr. Moussa is not attacking the RAD finding at the second prong of the IFA analysis, that it would be reasonable for him to relocate to one of the proposed cities.

[3] As accepted by Mr. Moussa, this Court is reviewing the RAD decision on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25. In doing so, the Court should not make its own findings or ask how it would have resolved an issue: *Vavilov* at paras 75, 125. The Court cannot set aside a decision unless it has sufficiently serious shortcomings such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency: *Vavilov* at paras 99–101.

[4] Having considered Mr. Moussa's arguments and in light of the RAD decision and the evidence on record, the Court finds that the decision was reasonable.

[5] The RAD finding that the evidence Mr. Moussa presented did not show that the criminal is connected to Hezbollah is reasonable. Mr. Moussa himself admitted that he didn't have "any

information to confirm the connection [to Hezbollah].” He simply believed that “[he] is a thief, and therefore must be connected to Hezbollah.” Mr. Moussa referred to objective evidence regarding car thieves in Lebanon and their connection to Hezbollah, which the RAD reviewed in detail. The RAD determined that this evidence does not support a presumption that a car thief in Lebanon is probably a member of Hezbollah. It found that Mr. Moussa’s statement that the criminal was affiliated with Hezbollah was simply a speculation on his part and that there was insufficient evidence to establish this affiliation.

[6] The Court’s role is not to simply reassess the evidence. It must show deference to the RAD’s findings, and it is the applicant’s burden to show that the RAD assessment was unreasonable: *Vavilov* at paras 100, 125. Mr. Moussa did not show this Court how the RAD’s assessment of the evidence was unreasonable.

[7] As for the issue of the criminal’s motivation to pursue Mr. Moussa in Beirut or Nabatieh, it is central to the determination of the viability of an IFA. The Court does not accept Mr. Moussa’s argument that the RAD findings on this were merely speculative. The RAD accepted that it was not permitted to simply speculate as to the motivations of an agent of persecution, citing this Court’s case law: *Builes v Canada (Citizenship and Immigration)*, 2016 FC 215 at paras 16–17. However, the RAD recognized that it could draw logical inferences about the motivations based on the evidence: *Kaur v Canada (Citizenship and Immigration)*, 2017 FC 757 at para 62. In this case, even though the evidence shows that Mr. Moussa received intimidating calls, he confirmed that nobody ever followed up on these threats despite his ongoing presence in his city. As the RAD concluded: “[a]lthough the agents of harm made

intimidating calls to him after he did not respond to the invitation to steal cars, and another after [the criminal] was arrested, they otherwise left him alone.” With this evidence, it was reasonable for the RAD to draw an inference that the criminal was not sufficiently motivated to harm him that he would follow him all the way to the suggested IFA cities. It was therefore a logical inference drawn from evidence about the motivation and actions of the agent of persecution and not mere speculation about this motivation.

[8] For these reasons, the Court finds that Mr. Moussa did not meet his burden of showing that the RAD decision was unreasonable. The application for judicial review is therefore dismissed. No question for certification was proposed by the parties.

[9] Given the Court’s findings on the merits, the Court does need to rule on the issue of whether the order issued by Justice Bell. granting leave to seek judicial review implicitly granted the application for extension Mr. Moussa requested and, if not, whether such an extension would be in the interest of justice.

JUDGMENT in IMM-7518-22

THE COURT’S JUDGMENT is as follows:

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

Judge

Certified true translation
Elizabeth Tan

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7518-22

STYLE OF CAUSE: AHMAD MOUSSA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: JULY 19, 2023

JUDGMENT AND REASONS: MCHAFFIE J

DATED: JULY 24, 2023

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