

Federal Court



Cour fédérale

Date: 20250116

Docket: IMM-2288-23

Citation: 2025 FC 91

Edmonton, Alberta, January 16, 2025

PRESENT: Madam Justice Go

BETWEEN:

AMNEH IBRAHIM BASHIR REFAT

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Amneh Ibrahim Bashir Refat [Applicant] is a 78-year-old Jordanian citizen of Palestinian origin.

[2] The Applicant has been displaced almost her entire life. The Applicant and her family left Palestine for Lebanon in 1948 when she was only six months old due to the Arab-Israeli war and

lived in a refugee camp until she was six years old. The Applicant relocated with her family to Bahrain where her father had been working, and then returned to Lebanon after one year when her father lost his job. At the age of 13, the Applicant moved again, this time to Kuwait, where she worked for three years. At the age of 16, the Applicant married a man, also of Palestinian origin, and obtained Jordanian citizenship through her husband. The Applicant and her family moved to Jordan after the Gulf War began, as they no longer felt safe in Kuwait due to the conflict and their Palestinian origins.

[3] The Applicant and her family experienced discrimination in Jordan due to their Palestinian origins. After her husband passed and all her children left Jordan, the Applicant also experienced harassment as an elderly widower living alone.

[4] While visiting her son in Canada, the Applicant filed a refugee claim in 2020, alleging that she fears returning to Jordan because of her Palestinian background and as an older woman. The Refugee Protection Division [RPD] refused her claim in August 2022. The Applicant appealed the decision of the RPD to the Refugee Appeal Division [RAD].

[5] The RAD confirmed the decision of the RPD and dismissed the appeal, finding that the Applicant is not a Convention refugee nor a person in need of protection [Decision]. The RAD determined the harms and discrimination the Applicant experienced in Jordan due to her Palestinian origin and profile as an older woman did not amount to persecution. The RAD also found that the Applicant has not established that she would be subjected personally to any risk to

life, cruel and unusual treatment or punishment, or torture in Jordan, as required by section 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[6] The Applicant seeks judicial review of the Decision.

[7] Like the RAD, I find this to be a difficult decision to make as I am sympathetic to the Applicant's circumstances. However, as the Applicant fails to discharge her burden of demonstrating the Decision was unreasonable, I dismiss the application.

II. Issues and Standard of Review

[8] The Applicant challenges the Decision on the following basis:

- a. That the RAD failed to undertake a proper analysis in finding that the harassment and cumulative discrimination the Applicant experienced did not amount to persecution; and
- b. That the RAD failed to properly assess state protection in its section 97 analysis.

[9] The Applicant and Respondent agree that the standard of review is reasonableness:

Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 [Vavilov] at paras 10, 25. The Court should assess whether the decision bears the requisite hallmarks of justification, transparency and intelligibility: *Vavilov* at para 99. The Applicant bears the onus of demonstrating that the decision was unreasonable: *Vavilov* at para 100.

III. Analysis

- A. *The RAD did not fail to undertake a proper analysis in finding that the harassment and cumulative discrimination the Applicant experienced did not amount to persecution*

[10] The Applicant submits the RAD did not properly consider that the cumulative discrimination and harassment she faced in Jordan amounted to a serious possibility of persecution: *Tetik v Canada (Citizenship and Immigration)*, 2009 FC 1240 [*Tetik*] at para 29.

[11] The Applicant alleges that as an older woman, she faces personalized risks. The Applicant claims that she was attacked by masked persons at her home while she was living alone. Referring to the test of cumulative discrimination and persecution as set out in *Mete v Canada (Citizenship and Immigration)*, 2005 FC 840 [*Mete*] at para 5, the Applicant submits the RAD did not undertake the proper inquiry but merely examined the circumstances of the attack on the Applicant in isolation.

[12] At the hearing, the Applicant reiterated that the RAD failed to consider the cumulative profile of the Applicant as an ethnic minority in Jordan and an elderly woman who lives alone.

[13] While I am sympathetic to the Applicant, I must reject her arguments as they lack merits.

[14] I note, first of all, that the RAD found that the Applicant has credibly established her allegations about her experiences of discrimination in Jordan as follows:

- a. The Applicant and her family were required to pay a large customs fee on return to Jordan in 1990 due to their Palestinian origin.

- b. The Applicant's daughter experienced discrimination in her education. She had to repeat two years of her university in Jordan when the family returned from Kuwait while Jordanians who were not of Palestinian origin did not have to do this.
- c. The Applicant's husband was not able to obtain work in government or big companies, as these organizations discriminated against Palestinian-Jordanians. Similarly, the Applicant's sons were not able to obtain work in the military or police force. When they obtained work, they were paid less and worked in less favourable conditions.
- d. The Jordanian government administered the Applicant's UNRWA pension, and she received only a portion of what was owed to her.
- e. The Applicant had access to public hospitals, but not the better hospitals for persons who work for the government, etc.
- f. The Applicant did not feel safe as an older woman living alone. She reports that at times her hydro or water was shut off to try to get her to come out of her house.
- g. In early 2016, masked persons knocked at the Applicant's door. This happened more than once. The Applicant was scared they would attack her. The Applicant phoned police, but police suggested she should not live alone, or she should keep her doors closed.

[15] Based on these allegations, the RAD found the Applicant's claim for protection has a nexus to the Convention grounds of nationality (Palestinian origins) and particular social group (both women and older women). The RAD explicitly stated that it would consider these grounds and their intersection in its assessment.

[16] The RAD however went on to find that these allegations are acts of discrimination that do not rise to the level of persecution. The RAD provided detailed reasons for its conclusion.

[17] Specifically, the RAD noted the allegation of masked persons knocking on her door, and agreed with the Applicant's submission on appeal that the RPD "mischaracterized the incidents."

[18] At the hearing before me, counsel for the Applicant conceded that there were no physical attacks, but argued there were “perceptions of attacks” that the RAD failed to consider.

[19] Contrary to the Applicant’s argument, the RAD acknowledged in the Decision that the incidents made the Applicant feel scared and unsafe. However, the RAD disagreed with the Applicant’s characterization of these incidents as “attacks.” Instead, the RAD found these incidents were harassment, likely because of the Applicant’s Palestinian origins and her profile as an older woman. While the Applicant may disagree with the RAD’s findings, her disagreement does not amount to a reviewable error.

[20] The RAD also reviewed the country conditions evidence, including the evidence of gender inequality and violence against women, and found the Applicant’s personal circumstances and vulnerabilities increase her risk of discrimination, as she is an older woman. The RAD also considered the Applicant’s personal situation, acknowledging her family’s experience with discrimination, including their access to employment and health care compared to other Jordanians and their ability to own property.

[21] Having considered all the factors of discrimination and harassment, and taking into account the country conditions and the Applicant’s personal circumstances, the RAD concluded that the Applicant does not face discrimination amounting to persecution, and that the discrimination and harassment the Applicant may face do not cumulatively result in a sustained or systemic violation of her human rights.

[22] Thus, contrary to the Applicant's argument, the RAD undertook the kind of analysis that this Court required in *Mete*. The RAD assessed the various incidents of discrimination in order to ascertain whether or not the Applicant has established a well-founded fear of persecution on cumulative grounds: *Mete* at para 5, citing *Retnem v Canada (Minister of Employment and Immigration)*, (1991) 132 NR 53 (FCA) and the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status at para 53.

[23] I also agree with the Respondent that *Tetik* does not assist the Applicant, albeit for different reasons. The Court in *Tetik* found that the RPD provided "deficient" reasoning in the individual analysis of some of the discriminatory acts, and unreasonably inferred that the harm resulting from the discrimination to which the applicants were exposed was not serious and systematic because the group to which they belong is not collectively and systematically discriminated against: *Tetik* at para 28. The Court in that case also found that the RPD did not consider the most serious harassment acts, namely the physical attacks, in the persecution analysis, but only in the state protection part of its reasons: *Tetik* at para 29. By contrast, the RAD in this case provided detailed reasoning for its analysis of all the discriminatory acts and their cumulative effect. The RAD's finding that the door knocking incidents did not amount to an "attack," as the Applicant initially alleged, was reasonable in light of the factual constraints before it.

[24] In conclusion, the Applicant fails to demonstrate that the RAD made reviewable errors in finding the Applicant's experiences of discrimination and harassment do not rise to the level of persecution.

B. *The RAD did not need to assess the issue of state protection*

[25] The Applicant submits the RAD's state protection analysis was deficient and defective.

The Applicant argues the issue is not whether there are mechanisms in place that will theoretically protect the applicant, but whether state protection is effective and operational: *Canada (Attorney General) v Ward*, [1993] 2 SCR 689, 103 DLR (4th) 1 at paras 724–725. In the present case, the Applicant had sought protection from the police regarding the masked persons knocking at her door, but the police took no action. The Applicant argues this confirms there was no effective and operational state protection, and the RAD failed to assess this reasonably.

[26] I reject the Applicant's argument.

[27] As the Respondent points out, the Applicant's criticism of the RAD's section 97 analysis fails to grapple with the Decision. The RAD found the Applicant had not established she faced a risk to life, cruel and unusual treatment or punishment, or torture in Jordan, and the Applicant has raised no issue with this finding. In the absence of such a risk, there is no need to consider the availability of state protection with respect to it.

[28] I am sympathetic to the Applicant, who endures a lifetime of displacement and faces discrimination and vulnerabilities in Jordan, the only country that grants her citizenship. I appreciate the Applicant's desire to stay in Canada where many of her family members live and where she can find safety and security. However, despite these strong humanitarian factors, I

must dismiss the application as I find the Decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law: *Vavilov* at para 86.

IV. Conclusion

[29] The application for judicial review is dismissed.

[30] There is no question for certification.

JUDGMENT in IMM-2288-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2288-23

STYLE OF CAUSE: AMNEH IBRAHIM BASHIR REFAT v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: JANUARY 13, 2025

JUDGMENT AND REASONS: GO J.

DATED: JANUARY 16, 2025

APPEARANCES:

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