

Date 20091110

Docket: IMM-5513-08

Citation: 2009 FC 1150

Montréal, Quebec, November 10, 2009

PRESENT: The Honourable Madam Justice Tremblay-Lamer

BETWEEN:

SEYEDABDOLREZA BELADI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application by Seyedabdolreza Beladi (the “Applicant”) pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (“IRPA”), for judicial review of a decision, dated November 28, 2008, by a Pre-Removal Risk Assessment Officer (the “Officer”), denying the Applicant’s application for permanent residence from within Canada on humanitarian and compassionate grounds (“H & C Application”).

[2] The Applicant is a citizen of Iran. He came to Canada on July 23, 2000, and was granted temporary residence. Later, he claimed refugee protection, but his claim was denied. The Applicant filed the H & C Application on January 16, 2006.

[3] It is not disputed that in Iran, the Applicant was for some time in a relationship with a woman of the Baha'i faith, but that this relationship came to an end in 1996. It is also not disputed that the Applicant ran a shop selling music prohibited by Iranian authorities, but that he no longer did so after 1993.

[4] The Officer rejected the H & C Application, concluding that the Applicant would suffer no unusual and underserved or disproportionate hardship if required to apply for a permanent resident visa from outside Canada.

[5] The Officer recognised that the Applicant "[a] su s'investir et créer des liens avec le Canada" by working, volunteering, learning English, etc. However, she found the Applicant's establishment in Canada was insufficient to impose unusual or disproportionate hardship on him should he be required to leave. She also noted that while a long stay in Canada due to circumstances beyond an applicant's control weighs in favour of granting an application on humanitarian and compassionate grounds, the length of the Applicant's stay in Canada was not due to such circumstances.

[6] As for the risk the Applicant would be subject to if returned to Iran, the Officer found that while the human rights situation in that country is worrying, there was no evidence that the Applicant himself would be subject to any specific risk. The Applicant is a man who is neither a member of a religious minority nor any political or other organization. In the Officer's opinion, the length of time elapsed since the end of the Applicant's relationship with a Baha'i woman and his involvement in the sale of prohibited music was such that he was unlikely to suffer particular difficulties for these reasons.

[7] Finally, the Officer found that while some Iranians coming back after a long stay abroad have been questioned by the authorities, and sometimes even arrested, such cases are rare, and typically concern individuals specifically suspected of anti-government activity. There were no such suspicions in the Applicant's case.

[8] The Applicant mainly relies on documentary evidence to the effect that human rights are being routinely violated in Iran, and the situation is going from bad to worse. Things are particularly bad for the regime's political opponents, those whose behaviour is deemed immoral, women, and members of religious minorities (including the Baha'i).

[9] The Minister submits that the Officer's conclusion that the Applicant is unlikely to be persecuted because of a long-terminated relationship with a Baha'i woman and even more distant sales of prohibited records was reasonably open to her. I agree.

[10] As the officer noted, the Applicant terminated the relationship with the Baha'i woman in 1996. It was not unreasonable for him to conclude that it was implausible that the Iranian authorities would persecute him for a relationship that ended 13 years ago or because he sold prohibited music at that time. Further, the Applicant did not provide any satisfactory explanation why generally his habits and thinking might be considered un-Islamic or Westernised by Iranian authorities.

[11] Thus, while it is not disputed that Iran is generally a repressive and unfree country, the Applicant has failed to demonstrate that the officer erred in her risk assessment.

[12] The Applicant further submits that the Officer erred in finding that his degree of establishment in Canada was not such as to cause him unusual and underserved or disproportionate hardship if returned to Iran.

[13] The Applicant considers that the Officer in effect "punish[ed] [him] for exhausting all the legal channels offered to him by the Canadian law." I do not believe that it is what the officer did. In her reasons, the officer specifically quoted the IP-5 manual which states that a prolonged stay in Canada is a positive factor for granting of an exemption if the circumstances that led to this prolonged stay in Canada are beyond the Applicant's control. This was not the case for the Applicant.

[14] The officer highlighted the factors that weigh against a finding that the Applicant established himself in Canada: he did not take professional courses; did not have stable jobs; and has close family members in Iran.

[15] I agree with the Minister that the Applicant's submission is little more than an attempt to reweigh the evidence.

[16] For these reasons, the application for judicial review of the decision is dismissed.

JUDGMENT

THIS COURT ORDERS that the application for judicial review of the decision be dismissed.

“Danièle Tremblay-Lamer”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5513-08

STYLE OF CAUSE: SEYEDABDOLREZA BELADI v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: November 9, 2009

**REASONS FOR JUDGMENT
AND JUDGMENT:** TREMBLAY-LAMER J.

DATED: November 10, 2009

APPEARANCES:

Viken Artinian FOR THE APPLICANT

Alexandre Tavadian FOR THE RESPONDENT

SOLICITORS OF RECORD:

Viken Artinian FOR THE APPLICANT
Montréal, Quebec

John H. Sims, Q.C., FOR THE RESPONDENT
Deputy Attorney General of Canada
Montréal, Quebec