

Federal Court



Cour fédérale

Date: 20150604

Docket: IMM-7630-14

Citation: 2015 FC 711

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Montréal, Quebec, June 4, 2015

PRESENT: The Honourable Mr. Justice Annis

BETWEEN:

VASHECA SHAMIR WILSON

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[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 of the Refugee Protection Division, dated October 2, 2014, which determined that Vasheca Shamir Wilson [the applicant] is neither a “Convention refugee” nor a “person in need of protection” and thus rejected her

claim. The applicant is asking this Court to set aside the decision and return the matter to a differently-constituted panel.

[2] Having read the parties' records and having considered their written and oral submissions, the present application for judicial review shall be dismissed for the reasons outlined below.

I. Background

[3] The applicant is a citizen of St. Vincent and the Grenadines.

[4] On April 8, 2010, the applicant was assaulted and raped by an employee of the family farm who was also her mother's best friend and who threatened to kill her if she reported him to the police. She reported the incident to her mother, who did not believe her. The applicant subsequently spent about one month in a psychiatric institution for depression before checking out on September 5, 2010. On October 27, 2010, the applicant attempted to poison herself and this was the point at which her mother came to believe that she had in fact been raped by the farm employee. In April 2012, the applicant left to join her sister in Canada. She arrived on April 17, 2012, and claimed refugee protection shortly thereafter.

[5] On April 23, 2013, the applicant was admitted to the Jewish General Hospital in Montréal for psychiatric care and left the hospital on June 14, 2013. At the time of the hearing before the RPD, the applicant was receiving psychiatric care on a monthly basis, having been diagnosed with psychotic schizophrenia.

[6] On October 2, 2014, the RPD rejected the applicant's claim for refugee protection, the determinative issues being the delay in leaving her country and state protection in St. Vincent and the Grenadines.

II. Issues

[7] According to the applicant, the RPD member made the following errors:

1. The RPD made unreasonable findings with respect to the ability of St. Vincent and the Grenadines to provide state protection, given the particular circumstances of this case; and
2. The RPD made unreasonable findings with respect to the risk faced by the applicant if she were to return to St. Vincent and the Grenadines in light of the particular circumstances of this case.

III. Standard of review

[8] The applicant's arguments raise questions of fact as well as questions of mixed fact and law; thus, they are reviewable on a standard of reasonableness (*Dunsmuir v New Brunswick*, 2008 SCC 9 (CanLII)).

IV. Analysis

[9] The RPD noted that if the applicant still feared her aggressor, she would have left St. Vincent and the Grenadines. The applicant stated that she had provided a reasonable explanation for the delay in leaving by the fact that she was supporting her mother and other

members of her family financially. The RPD should have considered the applicant's specific circumstances, i.e. that she had been assaulted and raped, hospitalized in a psychiatric facility, and was therefore in a fragile state. Moreover, she had no support from her mother, who did not believe her.

[10] The applicant points out that her aggressor remains free and could sexually assault her again. In addition, he had threatened to kill her if she reported him to the police. If the applicant were to have to return to St. Vincent and the Grenadines, she would see this individual every day due to his connection to her mother.

[11] The applicant submits that she did not seek state protection because her aggressor had threatened her with death if she did so. She further submits that the RPD engaged in a quick and selective reading of the documentary evidence on country conditions. In fact, the documentary evidence shows that St. Vincent and the Grenadines cannot provide adequate and effective state protection to women victims of violence.

[12] I am of the view that in this case it was reasonable for the RPD to find that the applicant had no real objective fear of persecution for the various reasons provided in the decision under review. These reasons are transparent and intelligible. The RPD's reasoning is rational and founded in law, and shows that the member carried out the fear analysis prospectively.

[13] In this case, the finding of a lack of an objective fear of future violence is not hypothetical and is based on the evidence in the record. After all, there were no threats or

incidents of persecution for over two years after the 2010 assault. The evidence with regard to state protection in St. Vincent and the Grenadines shows that there are major shortcomings when it comes to the protection of women, as the member described, however, the evidence is of a mixed nature. I do not find any errors that would warrant the intervention of the Court, which must not reweigh the evidence. Though I have taken the applicant's fragile state into account, I am of the view that it was nonetheless reasonable for the RPD to find that she had not taken adequate efforts to seek the protection of police authorities. In light of these findings, there is no need to address the other arguments raised by the parties.

[14] The application is dismissed. No question is certified.

JUDGMENT

THE COURT ORDERS that:

1. The application for judicial review is dismissed.
2. No question is certified.

“Peter Annis”

Judge

Certified true translation
Sebastian Desbarats, Translator

COURT
SOLICITORS OF RECORD

DOCKET: IMM-7630-14

STYLE OF CAUSE: VASHECA SHAMIR WILSON v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: JUNE 3, 2015

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

DATED: JUNE 4, 2015

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