

Federal Court



Cour fédérale

**Date: 20150609**

**Docket: IMM-1172-14**

**Citation: 2015 FC 726**

**Toronto, Ontario, June 9, 2015**

**PRESENT: The Honourable Madam Justice Strickland**

**BETWEEN:**

**KAJENDRAN ALAHAIYAH, SINTHANA  
KAJENDRAN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP OF  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is the judicial review of the decision of the Refugee Protection Division of the Immigration and Refugee Board (RPD) dated January 29, 2014, in which it concluded that the Applicants are not Convention refugees or persons in need of protection pursuant to sections 96 or 97, respectively, of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA). This application is brought pursuant to section 72 of the IRPA.

## **Background**

[2] The Applicants, Alahaiyah Kajendram (Applicant) and Sinthana Kajendran (Female Applicant), claim that on 25 December 2010 the Applicant was abducted by men in a white van. The men said that they were EPDP and that they knew that the Applicant's father was in Germany and that his brother was in Canada. They demanded money for the Applicant's release. The men hit the Applicant and threatened to kill him if the money was not paid. The Applicant was released when the demanded sum was paid. After speaking with his family about the situation, arrangements were made for him to flee Sri Lanka using an agent.

[3] In January 2011 the Applicants eloped. As they are from different castes their relationship was problematic. Prior to their elopement the Female Applicant had been locked in her room for five days by her mother and sister, who threatened and beat her. When the Female Applicant told her mother that she would not marry the Applicant; her family agreed to allow her to go to school, at which point the pair eloped. In February 2011 the Female Applicant's five uncles and four cousins came to the Applicant's home. They were armed with knives and swords and wanted the Applicant to come out. His mother argued with them, neighbours came in aid and the uncles and cousins left.

[4] On March 3, 2011 the Applicants went to Colombo to make arrangements to leave the country. The Applicant left on March 29, 2011. The Female Applicant remained behind and later learned that she was pregnant. She returned to her mother and sister, who beat her and forced her to take abortion tablets so she could start a new life with a man of her own caste. She

then left her mother's home and lived with the Applicant's mother until she departed Sri Lanka on August 29, 2011, with the assistance of an agent.

[5] The Applicants together travelled through various countries and arrived in the United States (US) on June 3, 2013, where they filed a claim for asylum. They travelled to Canada on August 15, 2013 and submitted a claim for refugee protection.

### **Decision Under Review**

[6] The RPD found that the determinative issues were credibility and generalized risk. It did not accept the Applicants' allegations as to what had occurred in Sri Lanka leading to their flight to Canada. The RPD noted that when the Applicant made his refugee claim at the port of entry (POE) he was asked why he was seeking protection in Canada. His response was that it was because of his marriage to a person of a different caste. He made no mention of being detained by the EDPD. The RPD did not accept his explanation for this, being that there were a lot of questions at the POE and that he was scared. It did not believe that he would omit mentioning that he had been kidnapped by the EDPD, held for three days, threatened and abused. This was a significant omission, particularly as he now claimed that it was the reason for his flight. The RPD concluded, on a balance of probabilities, that the abduction did not occur.

[7] The RPD noted that the Female Applicant alleged fear of the army, government and Tamil groups connected with government, yet her testimony was that she had no experiences with those groups. The RPD did not find it credible, given the prior events that she had described, that her family would have allowed her to remain with her husband's mother until her

departure from Sri Lanka. It did not accept her explanation that her relatives came to that home but left when asked to do so by her mother-in-law.

[8] The RPD stated that the Applicants had failed to persuade it, on a balance of probabilities, that they were generally credible or trustworthy witnesses.

[9] The RPD also found that the Applicants' fear, as identified at the POE, was of the Female Applicant's family members, who did not approve of the marriage. Family difficulties and vendettas are not a link to a Convention nexus.

[10] As to the Applicant's alleged fear of returning because they are young Tamils from the north of Sri Lanka who would be targeted and face persecution upon return, the RPD discussed the documentary evidence and ultimately agreed with the UK Operational Guidance Note which found that although ill treatment, including torture, of some individuals returning to Sri Lanka occurred, applied only to certain categories of individuals because of their profile or by cumulative risk factors and that this did not mean that Tamils in general would be at risk on return to Sri Lanka. The RPD found that in the Applicants' particular circumstances their personal profiles are not ones that would cause them to be viewed or targeted with suspicion by the Sri Lankan authorities. Accordingly, they had not satisfied their burden of establishing a serious possibility that they would be persecuted or that they would be personally subjected to risk of death or a risk of cruel and unusual punishment or danger of torture by any authority in Sri Lanka.

[11] The RPD also stated that even if it believed that the Applicant had been kidnapped by the EDPD, the extortion of money is a generalized, not a personal risk. The documentary evidence indicated that crime, including extortion by the kidnapping of persons who are wealthy or are so perceived by rogue elements of the government security forces and paramilitaries who have turned to criminality in efforts to consolidate their revenue sources, is a problem in Sri Lanka. Therefore, this would be a generalized and prevalent risk faced by that subgroup of the general population and, pursuant to s 97(b)(ii), the Applicant was not a person in need of protection.

[12] Further, as to their fear of the Female Applicant's family, there was nothing before the RPD to suggest that the Applicants could not relocate somewhere else in Sri Lanka or file a complaint with the police. Their allegations that the police would not take a complaint seriously had not been tested.

### **Issues**

[13] In my view the issues can be formulated as follows:

- i. Were the RPD's credibility findings reasonable?
- ii. Did the RPD fail to consider relevant evidence or the Applicant's claims on the basis of cumulative grounds or mixed motives?
- iii. Did the RPD err in its analysis of the issue of generalized risk?
- iv. Did the RPD apply an incorrect test for its s 96 risk assessment?

### **Standard of Review**

[14] It is well established that the RPD's findings on credibility are reviewable on the standard of reasonableness (*Kazan v Canada (Citizenship and Immigration)*, 2012 FC 1373 at para 20; *Pathmanathan v Canada (Citizenship and Immigration)*, 2012 FC 519 at para 29).

[15] Findings on generalized risk are likewise reviewable on the standard of reasonableness (*Servellon Melendez v Canada (Citizenship and Immigration)*, 2014 FC 700 at paras 21-22, *Galeas v Canada (Citizenship and Immigration)*, 2015 FC 667 at paras 37-39).

[16] Reasonableness is concerned with the justification, transparency and intelligibility of the decision-making process and also with whether the decision falls within a range of possible acceptable outcomes defensible in respect of the facts and law (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47 [*Dunsmuir*]). On that standard the reviewing Court will interfere with the decision only if it falls outside that range (*Dunsmuir* at paras 47-49; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paras 45-46, 59).

[17] Failure to consider relevant evidence is an error of law and therefore invites review on the standard of correctness (*Uluk v Canada (Citizenship and Immigration)*, 2009 FC 122 at para 16; *Esmaili v Canada (Citizenship and Immigration)*, 2013 FC 1161 at para 15). On that standard no deference is owed by the reviewing court, which will undertake its own analysis of the question and reach its own conclusion.

[18] Likewise, the alleged selection of an incorrect legal test speaks to an error of law and therefore is subject to review on the standard of correctness (*Ruszo v Canada (Citizenship and*

Immigration), 2013 FC 1004 at para 22; 2010 FC 920 at para 8, *Leshiba v Canada (Citizenship and Immigration)*, 2011 FC 442 at para 11).

## **Analysis**

### **Issue 1: Were the RPD's credibility findings reasonable?**

[19] The Applicants take the position that it was an error for the RPD to impugn the credibility of the Applicant on the basis of the information provided at his POE interview. Further, that the RPD appears to impugn the Applicants' credibility on the basis that they had not suffered past persecution. And that the RPD's finding that the Female Applicant's family would have permitted her to remain with her husband's family is sheer speculation.

[20] The Respondent submits that POE notes may be relevant if they differ markedly from an applicant's BOC or testimony at the hearing, which was the circumstance in this matter. Further, it was open to the RPD make an adverse plausibility finding and to dismiss the Female Applicant's explanation that, after March 2011, her family allowed her to remain with the Applicant's family, given her own testimony concerning her prior mistreatment at their hands. It was also open to the RPD to dismiss as unfounded the Female Applicant's alleged fear of the army, government and Tamil groups connected with the government, given her testimony that she had no prior experiences with any of those groups, which undermined the subjective basis of her fear.

[21] In my view the RPD's credibility findings were reasonable. Assessments of credibility lie within the heartland of the RPD's expertise (*Tariq v Canada (Citizenship and Immigration)*, 2015 FC 692 at para 10; *Yener v Canada (Citizenship and Immigration)*, 2015 FC 618 at para 15; *Giron v Canada (Minister of Employment and Immigration)* (1992), 143 NR 238 at 239 (FCA)), and the RPD is best placed to make them (*Gougoushvili v Canada (Citizenship and Immigration)*, 2013 FC 1214 at para 35; *Aydin v Canada (Citizenship and Immigration)*, 2012 FC 1329 at para 22; *Aguebor v Canada (Minister of Employment and Immigration)* (1993), 160 NR 315 at para 4 (FCA)).

[22] With respect to the Applicant's POE evidence, this was not a situation where the POE interview notes lacked detail or where an omission or discrepancy was of a minor nature when compared to a BOC or the claimants' testimony. The Applicant was very clear on why he sought protection in Canada, being fear of his wife's family in Sri Lanka because of their marriage, and he made absolutely no reference to being abducted, mistreated and extorted:

Q. Why are you asking for protection in Canada?

A: I HAVE NO PROTECTION IN MY COUNTRY. IT IS BECAUSE OF MY MARRIAGE, BECAUSE WE BELONG TO TWO DIFFERENT CASTE SYTEMS. I AM A KOVIAR AND MY WIFE IS A GOLD SMITH. THE FAMILIES CAME TO KNOW BEFORE WE WERE MARRIED. MY WIFE'S MOTHER AND HER SISTER STOPPED HER FROM GOING TO SCHOOL AND HER RELATIVES WERE TRYING TO BEAT ME. BECAUSE OF THIS WE ELOPED AND REGISTERD THE MARRIAGE. MY WIFE'S FAMILY FOUND OUT AND WENT TO MY FAMILY'S HOUSE WITH WEAPONS LOOKING FOR ME. WE WERE ALREADY IN ANOTHER CITY, MY WIFE CALLED HER FAMILY AND LIED AND SAID WE WERE IN COLOMBO WHICH IS ABOUT 12 HOURS AWAY. THEY LOOKED AROUND FOR US AND WE THOUGHT EVERYTHING WAS OK, MY MOTHER SAID IT WAS OK TO GO HOME SO WE WENT BACK TO MY MOTHERS HOUSE, MY WIFE'S FAMILY



FOUND OUT WE WERE THERE AND THE NEXT MORNING ALL OF HER FAMILY WERE IN FRONT OF THE HOUSE THREATENING THAT IF I DON'T LET MY WIFE LEAVE THE HOUSE THEY WOULD KILL ME. BECAUSE THEY THREATENED TO KILL ME MY MOTHER SENT US TO MY AUNTS HOUSE 8 KMS AWAY. THEY FOLLOWED US TO MY AUNTS HOUSE AND BECAUSE OF THIS I MADE ARRANGEMENTS TO BRING MY WIFE BACK TO MY MOTHER AND LEAVE THE COUNTRY. ONCE I LEFT THE COUNTRY MY WIFE'S FAMILY STARTED HAVING A GOOD RELATIONSHIP, I HAD WARNED HER THAT THERE MAY BE PROBLEMS BUT SHE WENT TO HER MOTHERS HOUSE. AFTER SHE WENT TO HER MOTHERS HOUSE SHE LOST A CHILD AND I THINK IT HAD TO DO WITH HER VISITING HER MOTHER. MY WIFE THOUGHT EVERYTHING WAS FINE BUT AFTER SHE LOST THE CHILD SHE THOUGHT IT WAS BECAUSE OF SOMETHING HER MOTHER DID. AFTER THIS, ARRANGMENTS WERE MADE AND PROPERTY WAS SOLD AND MY WIFE LEFT THE COUNTRY.

[23] This was a detailed explanation and clearly answered why the Applicant was seeking protection in Canada. The RPD was entitled to make, and reasonably made, an adverse credibility finding based on the omission from this response of any mention whatsoever of the Applicant's subsequent claim in his BOC that he was abducted and abused and his family extorted by the EPDP and his claim that he feared further abductions. It was also reasonable for the RPD to reject his explanation of the omission, being that there were a lot of questions and he was scared (*Fernando v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1349 at para 20; *Gomez Cordova v Canada (Minister of Citizenship and Immigration)*, 2009 FC 309 at para 12).

[24] The RPD also made a negative plausibility finding concerning the Female Applicant's claim in her BOC that, after her mother and sister beat her and forced her to take abortion tablets

so that she could start a life with a man of her own caste, they would then allow her to simply leave and go to reside with the Applicant's mother.

[25] The Female Applicant's testimony was that her mother and sister made her drink a medicine to abort, that they were keeping her under house arrest, even accompanying her to the bathroom, but that when they were busy she pretended that she was going out and then went to the Applicant's mother's house. During the two or three months she stayed there before leaving the country her mother threatened her, caused her problems and asked her to come back, but her mother-in-law prevented this, simply by asking the relatives to please stop coming to the house. After that, they came by only every two weeks (CTR, pp 497-98).

[26] The RPD found that it was not credible that the Female Applicant's family would just allow her to remain with the Applicant's mother. Nor did it accept her explanation that they left her alone when the Applicant's mother asked them to please do so, in light of the prior allegations that her uncles and cousins had attended, armed, at the Applicant's mother's house and threatened to kill the Applicant, and that her mother and sister had beaten her and forced an abortion on her.

[27] Plausibility findings should be made only in the clearest of cases, such as those in which the facts as presented are outside the realm of what could reasonably be expected (*Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 7). They should be based on the evidentiary record, not on speculation (*Lacko v Canada (Citizenship and Immigration)*, 2015 FC 512 at para 10). Here the evidentiary basis of the RPD's plausibility

finding was the Female Applicant's own testimony concerning the prior behaviour of her family.

Based on the Female Applicant's own evidence, in my view this finding was reasonably open to the RPD.

[28] Finally, as to the Applicants' submission that the RPD appeared to impugn their credibility on the basis that they had not suffered past persecution, the Applicants refer to paragraph 14 of the RPD's reasons in support of that submission. At that paragraph the RPD states that the Female Applicant alleges fear of the army, government and Tamil groups connected with the government, but, when asked if she had any experiences with any of those groups, she testified that she did not.

[29] This is an accurate description of the evidence by the RPD. The Applicants' BOC states that they feared returning to Sri Lanka because they feared arrests, detentions and mistreatment from the authorities, including sexual harassment of the Female Applicant. Her testimony before the RPD was that she feared the army and the government and the Tamil groups connected to the government and her relatives. When asked why she held that fear, she stated it was because those entities would suspect that the Applicants are terrorists, as they live in the north and are a young woman and man. When asked if she had any experience with the army, government and Tamil groups connected to the government, she replied "no". When asked why she thought she would be a target, she replied because they think young women and men are terrorists and that she knew this because people like her got into problems, they are taken and disappear, which she knew because people in her village had said so.

[30] The RPD made no specific credibility finding on this issue. I am also not convinced that, as the Applicant submits, the RPD impugned their credibility on the basis that they had not suffered past persecution. In any event, as the jurisprudence cited by the Applicant suggests, the relevance of evidence of past persecution is that it may support a well-founded fear of persecution in the future. Therefore, as the Respondent asserts, it was open to the RPD to dismiss as unfounded the Female Applicant's alleged fear of the army, government and Tamil groups connected to the government, given her testimony that she had no prior experiences with those groups. While this may not go to credibility, it brought into question the subjective basis of her alleged fear.

[31] In conclusion, the RPD's credibility findings were reasonable and do not require intervention by this Court.

**Issue 2: Did the RPD fail to consider relevant evidence or the Applicants' claims on the basis of cumulative grounds or mixed motives?**

[32] The Applicants submit that although the RPD found them not to be credible it did accept that they are Tamil, that they are from Northern Sri Lanka, that they would be failed asylum seekers returning to Sri Lanka and that the Female Applicant is a woman. Accordingly, the RPD was required to assess the claim on the basis of those four factors. This is because the objective documentary evidence may be such that the claimants' particular circumstances make them persons in need of protection despite that fact that the RPD has found them to lack credibility.

[33] The Applicants then recite, at length, the documentary evidence that was before the RPD with respect to Tamils generally and Tamils from the north as well as with respect to failed asylum seekers and women in Sri Lanka. The Applicants assert that the RPD erred by ignoring this evidence, which directly contradicted its conclusion. The RPD further erred in examining the four bases to the claim in isolation from one another, rather than on a cumulative basis, and in accordance with the doctrine of mixed motives.

[34] The Respondent submits that the RPD assessed the Applicants' allegation that they were at risk of persecution on account of their status as Tamils from the north of Sri Lanka and failed asylum seekers. It also assessed the Female Applicant's claim that she is also at risk of persecution based on her gender. The risk analysis was cumulative. The RPD considered the country conditions evidence concerning returnees. It observed that this evidence was mixed but that some returnees who are perceived as either LTTE members or supporters would face detention or torture upon arrival in Sri Lanka. However, the Applicants were not likely to be perceived as either LTTE members or supporters. This was based on their testimony that they had no connection to the LTTE in Sri Lanka or Canada. They also did not possess any of the cumulative risk factors identified in the country conditions.

[35] As this Court has repeatedly stated, it is not necessary for the RPD to refer to every piece of evidence in the record and will be presumed to have taken all of the evidence into consideration. However, when there is relevant contradictory evidence that is unacknowledged by the decision-maker, a reviewing Court may conclude that the RPD overlooked the contradictory evidence when making its finding of fact (*Goman v Canada (Citizenship and*

*Immigration*), 2012 FC 643 at para 13; *Urrea Bohorquez v Canada (Citizenship and Immigration)*, 2011 FC 808 at para 13; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)* (1998), 157 FTR 35 at para 17; *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 at para 1 (FCA) (QL)).

[36] In this matter the RPD acknowledged that counsel for the Applicants had drawn its attention to documentary evidence wherein various sources, including the Canadian government, expressed concerns about the poor treatment of Tamils, particularly Tamil returnees. The RPD acknowledged that the documentary evidence as regards the returnees was mixed, with evidence that some returnees who are perceived as either LTTE members or supporters would face detention or torture upon their arrival at the airport in Sri Lanka. It noted that a recent Response to Information stated that, as reflected in the UK Operation Guidelines note for Sri Lanka, the UK Border Services Agency accepted that ill treatment amounting to torture does exist and that certain categories of individuals, by virtue of their profile, or by cumulative risk factors, might be at risk. The Agency did not accept that Tamils in general would be at risk on return.

[37] The RPD found that the documentary evidence identified that those who had an association with the LTTE in Sri Lanka, actual or perceived, were more likely to be targeted upon return. However, that this was not the case for the Applicants, who were fleeing the Female Applicant's family. After considering all of the documentary evidence, the RPD agreed with the British authorities that the mere fact that returnees with certain profiles or cumulative risk factors experienced ill treatment, including torture, did not imply that Tamils in general were at risk.

The RPD specifically noted that the Female Applicant alleges a fear due to her being young and Tamil but reached the same conclusion that her profile did not put her at risk.

[38] The Applicants submit that their claim is based on four factors: they are Tamils, they come from the north of Sri Lanka, they are failed asylum seekers and the Female Applicant is a woman. In my view, the RPD took each of these factors into account in its analysis. The RPD was also aware that cumulative factors could, in some cases, place an individual at risk. Here, however, the Applicants point to no evidence that suggests that these four factors together would put them at risk of a well-founded fear of persecution in these circumstances.

[39] In my view, the RPD reasonably considered the documentary evidence and assessed the Applicants' risk.

### **Issue 3: Did the RPD err in its analysis of generalized risk?**

[40] The Applicants submits that there is a clear nexus to the Convention by reason of perceived political opinion, the EDPD being a political party with a political agenda. Therefore, any refusal to accede to their demands would be seen as indicative of opposition to that political agenda. Further, that the RPD misunderstood this aspect of the claim because the Applicants do not fear extortion *per se*, but rather the persecutory consequences of a failure to accede to extortion demands. Therefore, the claim should have been considered under s 96.

[41] The Respondent submits that the fact that the Applicant's father paid the ransom demanded by the EPDP does not create a nexus to any s 96 ground. The Applicant and his

family were the alleged victims of crimes of abduction and extortion and he was released when the ransom was paid. There is no evidence that he was abducted for any reason other than the EDPD's belief that his father, a German citizen, had money. Further, the hypothetical refusal to pay further extortion demands cannot be construed as an act of political resistance to the EDPD (*Wilson v Canada (Citizenship and Immigration)*, 2013 FC 103 at para 5). This is particularly so in this case, given the Applicant's own evidence that he was allegedly targeted because of his father's perceived wealth, not for any reasons related to the EPDP's fulfilment of its political agenda. Further, the circumstances of the Applicant's alleged kidnapping do not meet the requirements of s 97(1)(b)(ii) of the IRPA (*Paz Guifarro v Canada (Citizenship and Immigration)*, 2011 FC 182 at para 30).

[42] I would first note that I have already found the RPD's credibility assessment to be reasonable. As the RPD found that the abduction of the Applicant by the EPDP did not occur, the Applicants' submissions as to a nexus to a s 96 ground on the basis of perceived political opinion cannot succeed.

[43] In any event, I agree with the Respondent that there is no evidence that the Applicant was abducted for any reason other than perceived wealth, which does not give rise to a nexus to a particular social group for the purposes of s 96. Nor does a hypothetical refusal to pay a future ransom demand create a nexus by way of a perceived political opinion (*Jawad v Canada (Citizenship and Immigration)*, 2012 FC 1035 at para 12). The RPD reasonably found that the Applicants' fear of the Female Applicant's family, who do not approve of their marriage, are



family difficulties or vendettas, is not a link to the Convention (*Talanov v Canada (Citizenship and Immigration)*, 2014 FC 881 at para 9).

[44] Further, there was no error in the RPD's s 97 generalized risk analysis which concluded that, were the Applicant to be believed, the risk he would face upon return to Sri Lanka would be a generalized and prevalent risk faced by a subgroup of the population, namely, people perceived to be wealthy; as such, the risk would be excluded by s 97(1)(b)(ii) (*Rodriguez Perez v Canada (Citizenship and Immigration)*, 2009 FC 1029 at para 35).

**Issue 4: Did the RPD apply an incorrect test for its s 96 risk assessment?**

[45] The Applicants also submit that the RPD articulated an incorrect test in its analysis of their s 96 risk as returnees.

[46] The Respondent submits that the correct test was stated near the start of the reasons and that it is clear from a review of the entirety of the reasons for the decision that the RPD applied the correct test for refugee protection.

[47] In my view, the RPD did not apply an incorrect test. At paragraph 5 of its reasons it stated that the Applicants had not satisfied the burden of establishing a serious possibility of persecution for a Convention ground or that they would be personally subjected, on a balance of probabilities, to a danger of torture, or a risk to life or a risk of cruel and unusual treatment or punishment upon return to Sri Lanka. Therefore, they were neither Convention refugees nor

persons in need of protection pursuant to ss 96 and 97 of the IRPA. This was restated in paragraph 24.

[48] The Applicants submit that reference to those “more likely” to be targeted in paragraph 21 of the reasons gives rise to the error. Paragraph 21 reads as follows:

The documentary evidence speaks to the United Kingdom deportation of failed Tamil claimants and identifies that those who had an association with the LTTE in Sri Lanka (actual or perceived) in their own right and/or through their immediate family members before they went to the United Kingdom were more likely to be targeted by upon return. This is not case for these claimants; they were fleeing the female claimant’s family members.

[footnote omitted]

[49] In my view, this paragraph simply describes the documentary evidence; it does not adopt an incorrect test. Nor does the RPD suggest at paragraph 22 of its reasons, as the Applicants submit, that the Applicants must prove that all Tamils are at risk. Rather, the RPD is simply stating its conclusion, on the review of the documentary evidence, that only returnees of a certain profile would be at risk upon return to Sri Lanka, which does not mean that Tamils in general would be so.

[50] In conclusion, it is clear from a review of the decision in whole that the RPD applied the correct test.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There shall be no order as to costs.
3. No question of general importance was proposed and none arises.

"Cecily Y. Strickland"

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Judge

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

**DOCKET:** IMM-1172-14

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