

Federal Court



Cour fédérale

Date: 20171109

Docket: IMM-1768-17

Citation: 2017 FC 1024

Ottawa, Ontario, November 9, 2017

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

**NAKEISHA MAE JOHNSON
NATHAN AKEEM DANIELS (MINOR)
DASHANIQUE SHEV JOHNSON
DANIELS, KESHAN PRECIOUS (MINOR)
(a.k.a. DANIELS, KESHAN PRECIOUS A.)
DASHAD RODRICKO DARVILLE
SHEVA MAE WHYMSS
SHAQUILLE JOHN JOHNSON
SOLOMON GLEN JOHNSON (MINOR)
RODNEY MICHAEL DARVILLE (MINOR)
RASHAYE NATOYA DARVILLE (MINOR)
KENSON ANTONIO DANIELS**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is the judicial review of a Refugee Appeal Division [RAD] decision which upheld a decision of the Refugee Protection Division denying the Applicants' refugee protection claim.

[2] The Applicants are all citizens of the Bahamas who allege a fear of gang violence. Nakeisha Mae Johnson is the principal Applicant [the Applicant]. The other Applicants are Ms. Johnson's children, husband, mother, brother, and nephew.

II. Facts

[3] The facts are straightforward. The Applicant's sister was killed and the Applicant believes a Mr. Reckley committed the crime. He is allegedly associated with the Fire and Theft gang. The Applicants believe, without proof, that Reckley arranged to intimidate them so that they would be afraid to testify against him.

[4] Starting in November 2015, groups of men started harassing the Applicants. The men carried guns, and on one occasion one of them shot at the Applicant's husband and son outside their home.

[5] The Applicant reported each incident and the police responded, but not in a way that satisfied the Applicant. It was this alleged inaction by the police to the continuing violence which led the Applicants to leave the Bahamas.

[6] The RAD's principal finding in its decision was that the Applicant did not rebut the presumption of state protection. The RAD dismissed the appeal for the following reasons:

- police responded each time they were called except for one instance on Independence Day when police were occupied with other matters;
- police and the state responded when Reckley committed other crimes – he was not “untouchable”;
- Reckley is under investigation for serious criminal offences;
- when one of the minor Applicants was shot at, police responded by taking a report, accompanying him home, and checking the property before he was left alone;
- none of the Applicants were ever personally threatened by Reckley, nor were the Applicants personally harmed by the alleged agents of harm; and
- there was insufficient evidence that the police ever had sufficient evidence to arrest Reckley for anything related to the claim. There was only speculation based on a third party hearsay communication of information.

III. Analysis

[7] It is trite law that the standard of review in this instance is reasonableness.

[8] While the country condition documents outline many difficulties with gang violence and police resources, there was no reasonable basis for the RAD to conclude that the Bahamas is bereft of police protection.

[9] The Applicants may genuinely believe that Reckley poses a danger to them and that the police have not done enough to protect them, but it was reasonable in light of the objective evidence for the RAD to conclude that state protection exists and will be available to them in the Bahamas – as it has been in the past.

[10] While not mentioned by the RAD, it is noteworthy that for all the allegations of insufficient protection, none of the Applicants sought to engage other elements of the state such as higher police authority, the Attorney General’s office or similar organizations.

[11] I can find no basis for the Court to intervene in the RAD’s assessment of state protection.

IV. Conclusion

[12] For these reasons, this judicial review will be dismissed. There is no question for certification.

JUDGMENT in IMM-1768-17

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

"Michael L. Phelan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1768-17

STYLE OF CAUSE: NAKEISHA MAE JOHNSON, NATHAN AKEEM DANIELS (MINOR), DASHANIQUE SHEV JOHNSON, DANIELS, KESHAN PRECIOUS (MINOR), (a.k.a. DANIELS, KESHAN PRECIOUS A.), DASHAD RODRICKO DARVILLE, SHEVA MAE WHYMSS, SHAQUILLE JOHN JOHNSON, SOLOMON GLEN JOHNSON (MINOR), RODNEY MICHAEL DARVILLE (MINOR), RODNEY MICHAEL DARVILLE (MINOR), RASHAYE NATOYA DARVILLE (MINOR), KENSON ANTONIO DANIELS v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 8, 2017

JUDGMENT AND REASONS: PHELAN J.

DATED: NOVEMBER 9, 2017

APPEARANCES:

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