

Federal Court



Cour fédérale

**Date: 20180413**

**Docket: IMM-3536-17**

**Citation: 2018 FC 405**

**Ottawa, Ontario, April 13, 2018**

**PRESENT: The Honourable Mr. Justice Gleeson**

**BETWEEN:**

**HANEEN N M ABDALQADER AND  
SABREEN N M ABDALQADER**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The applicants, Haneen and Sabreen Abdalqader, are sisters. They have resided in Jordan but are stateless.

[2] The applicants left Jordan in December 2016. They arrived in Canada through the United States, and made a refugee claim. They claim to have left Jordan to escape persecution due to their status as stateless individuals in Jordan and their gender. Haneen also advances a claim based on a fear of her husband who she reports has physically and sexually abused her and threatened her with physical harm for seeking a divorce.

[3] The RPD found that while the applicants faced discrimination in Jordan, that discrimination did not rise to the level of persecution. The RPD also found that Haneen had an internal flight alternative [IFA] in other parts of Jordan, such as Amman. The RPD found the IFA would allow her to live without a serious risk of persecution or risk of harm from her husband.

[4] The applicants challenge both of these conclusions. The application raises the following issues:

- A. Did the RPD err in concluding that the applicant's treatment did not amount to persecution?
- B. Did the RPD err in finding that an internal flight alternative was available to allow Haneen to avoid persecution from her husband?

[5] For the reasons that follow the application is dismissed.

II. Background

[6] The applicants' mother is Jordanian and their father is a stateless Palestinian. The applicants were born in Jordan. They have lived in Jordan most of their lives but under Jordanian law women do not pass their citizenship on to their children. The applicants have held Palestinian passports but they report these documents only allowed international travel. The applicants are stateless.

[7] The applicants' father is a political writer who is opposed to the Palestinian authority and Jordanian politics. He was deported from Jordan and currently resides in Yemen. They have resided with their mother but their right to reside in Jordan was subject to annual renewal of their Jordanian temporary residence permits. Both have completed a University education in Jordan and had obtained employment.

[8] In November 2015 Haneen married a Jordanian national. She left her husband a few months later, in March 2016, after incidents of sexual and physical abuse. In April 2016 she filed for divorce. Haneen's evidence was that her husband threatened her repeatedly, including threats to burn her face with acid, he tried to hit her with a vehicle, and on two occasions showed up at her place of work looking for her.

[9] The applicants have a brother in Calgary who they report has been granted refugee status on the basis of their father's treatment in Jordan and the father's reported deportation from Jordan for life as a result of his political writings.

### III. Decision under Review

[10] The RPD accepted that the sisters are Palestinian and former habitual residents of Jordan, and that Haneen genuinely feared her husband. The RPD noted some discrepancies between Haneen's testimony and the Basis of Claim Form and also noted that she overly generalized and exaggerated some allegations. The RPD found the applicants were nonetheless candid and credible as they provided specifics when clarification was sought.

[11] The RPD acknowledged that women experience discrimination in many aspects of life in Jordan, including inheritance, child custody, government benefits, the workplace, and marriage, and that domestic violence and sexual harassment are problems. The panel concluded that while the "disadvantages to women are unjust, [they] do not represent a serious, sustained and systematic violation of basic human rights or fundamental freedoms that amount to persecution."

[12] The RPD noted that statelessness *per se* does not create a refugee, and found that the majority of the discrimination that Palestinians face in Jordan was related to their lack of citizenship, not their status as Palestinians. The RPD considered non-citizens' lack of access to education, exclusion from health insurance, and prohibition from owning property. The RPD noted that although Jordan does not allow non-citizens to attend state schools, the applicants are both university educated. The RPD also noted they had not been denied healthcare services, but were required to pay for these services. The RPD concluded that these policies and practices when considered together were discriminatory but did not amount to persecution.

[13] The RPD also noted that a recently passed Bill aimed at enhancing the rights of “Jordanian progeny” was being implemented and was “an important development in terms of the situation for non-citizens and improving discriminatory practices.” The RPD noted this Bill provides children of Jordanian women who had resided in Jordan for at least five years with free high school education and health services, and the rights to own property and obtain a driver’s licence among other things.

[14] The RPD acknowledged that significant employment challenges exist for non-citizens but noted that despite these difficulties both applicants had been employed and were likely to find work again in the future. Employment challenges were found to be “discriminatory but not persecutory.”

[15] The RPD considered the impact of their father’s political views but concluded that any denial of an ability to work in certain areas was related to the applicants’ lack of citizenship rather than their father’s activities. The RPD pointed to the applicants having obtained approval to pursue post-secondary studies and the annual renewal of their residency permits to conclude they had not been targeted because of their father’s politic activities.

[16] The RPD then considered the risk related to Haneen’s husband. The RPD considered her husband’s behaviour based on Haneen’s evidence and concluded an IFA was available.

IV. Standard of Review

[17] The applicants do not address standard of review. The respondent submits reasonableness applies. I agree. The issues raised in this application involve questions of mixed fact and law to be reviewed on a standard of reasonableness (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 51 [*Dunsmuir*]; *Devanandan v Canada (Citizenship and Immigration)*, 2016 FC 768 at para 15; *Cambara v. Canada (Citizenship and Immigration)*, 2017 FC 1019 at para 13).

[18] The reasonableness standard of review is a deferential standard. A Court will not intervene where a tribunal's reasoning is transparent, justified and intelligible and the result falls within the range of possible acceptable outcomes that are defensible based on the facts and the law (*Dunsmuir* at para 47). Where the decision falls within the range of acceptable, possible outcomes it is not for a reviewing Court to substitute its view for that of the tribunal's even if the Court is in disagreement.

V. Analysis

A. *Did the RPD err in concluding that the applicant's treatment did not amount to persecution?*

[19] The applicants submit that the RPD failed to address the cumulative impact of the harassment and discrimination they experienced in Jordan. They argue that they were not required to establish either past or future persecution. Rather they were required to establish that there were good grounds to fear persecution. They submit that their brother had been granted refugee status based on their father's political writings and that the RPD erred in not reaching the

same result in their case. They further submit that the RPD erred in accepting they had suffered discrimination due to their status as stateless persons but failed to consider whether this discrimination amounted to persecution.

[20] The applicants argue that the RPD also erred in concluding that the plight of stateless women in Jordan was discriminatory but again did not rise to the level of persecution, particularly as Haneen had experienced domestic violence and sexual harassment and was raped by her husband. The domestic abuse allegations are addressed below as part of the IFA analysis.

[21] I am not persuaded by the applicants' arguments.

[22] The applicants are correct in noting that significant and repeated instances of discrimination in respect of fundamental aspects of life may amount to persecution (*Horvath v Canada (Citizenship and Immigration)*, 2014 FC 313 at paras 23 to 25 [*Horvath*]; *Mohammed v Canada (Citizenship and Immigration)*, 2009 FC 768 at para 67 [*Mohammed*]). However "whether the cumulative circumstances of an individual rise to the level of persecution depends on the particular circumstances of the case" (*Horvath* at para 25).

[23] In *Mohammed* Justice James Russell noted that it is not enough for a decision-maker to simply say that various forms of discrimination have been considered cumulatively; rather, the reasons must provide an "...explanation as to why the cumulative impact does not amount to persecution" (*Mohammed* at paras 66 and 67). I acknowledge that the absence of express reasons for why cumulative discrimination does not amount to persecution may, in some circumstances,

render a decision unreasonable. However, I do not believe this to be the case in all circumstances. In *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 [*Newfoundland Nurses*]*—*a decision that post-dates *Mohammed**—*Justice Abella on behalf of the Supreme Court states the following at paragraph 18:

[18] Evans J.A. in *Canada Post Corp. v. Public Service Alliance of Canada*, 2010 FCA 56, [2011] 2 F.C.R. 221, explained in reasons upheld by this Court (2011 SCC 57, [2011] 3 S.C.R. 572) that *Dunsmuir* seeks to “avoid an unduly formalistic approach to judicial review” (para. 164). He notes that “perfection is not the standard” and suggests that reviewing courts should ask whether “when read in light of the evidence before it and the nature of its statutory task, the Tribunal’s reasons adequately explain the bases of its decision” (para. 163). I found the description by the Respondents in their Factum particularly helpful in explaining the nature of the exercise:

When reviewing a decision of an administrative body on the reasonableness standard, the guiding principle is deference. Reasons are not to be reviewed in a vacuum – the result is to be looked at in the context of the evidence, the parties’ submissions and the process. Reasons do not have to be perfect. They do not have to be comprehensive. [para. 44]

[24] If the reasons allow this Court to understand why the tribunal made its decision and determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met (*Newfoundland Nurses* at para 16).

[25] Recent decisions of this Court have considered arguments that a decision-maker errs in merely stating the test. In those cases the Court has found that the statement must be considered in the broader context of the decision- maker’s overall assessment of the alleged discrimination



*(Awadh v Canada (Citizenship and Immigration)*, 2014 FC 521 at para 26; *Galamb v Canada (Citizenship and Immigration)*, 2016 FC 1230 at para 25).

[26] In this case the RPD engaged in a detailed assessment of the various forms of discrimination the applicants faced and identified and addressed the applicant's particular facts and circumstances. These included: (1) access to education and health care, albeit on different terms than Jordanian citizens; (2) the applicants' ability to obtain a university education; (3) the reasonably available finding that their father's political activities did not negatively impact upon the applicants; (3) the fact that the applicants had been employed in Jordan; and (4) advances in Jordanian legislation aimed at improving the rights of "Jordanian progeny." The conclusion that the cumulative effect of the discrimination did not rise to the level of persecution was not merely a statement but rather reflected the RPD's overall view based on its analysis. It was reasonable for the RPD to come to this conclusion and to find in turn that the applicants had not established a "well-founded fear of persecution."

[27] The fact that a different decision-maker considering their brother's claim arrived at a different conclusion does not render the RPD's decision in this case unreasonable. As *Dunsmuir* recognizes at para 47, "certain questions that come before administrative tribunals do not lend themselves to one specific, particular result. Instead, they may give rise to a number of possible, reasonable conclusions."

B. *DID the RPD err in finding that an internal flight alternative was available to allow Haneen to avoid persecution from her husband?*

[28] The applicants argue that Haneen has not been granted a divorce and if she is forced to return to Jordan she will encounter her husband and the abuse will continue. They further submit that Amman is very closely situated to her husband's residence within Jordan and that he may travel that short distance to find her.

[29] This argument reflects disagreement with the RPD's IFA conclusion. Disagreement however does not render the decision unreasonable. The RPD's IFA finding was based on the husband's behaviour as reflected in Haneen's evidence. The RPD acknowledged that her husband had threatened her and made efforts to contact her in her workplace. The RPD then noted: (1) there was no evidence that her husband had made direct personal contact with Haneen after she left him; (2) Haneen had remained at her place of work without coming to harm before leaving the country; (3) even though Haneen was living in an obvious place—in her former home with her mother and sister—her husband did not confront her there; and (4) when asked why she could not relocate to Amman, Haneen testified that she would have problems finding work, entering Jordan, and maintaining residency but did not identify any other safety concerns or that her husband would locate her.

[30] In applying the two-part IFA test, it was reasonably open to the RPD to conclude on the evidence before it that there is no serious possibility of the claimant being persecuted in other parts of Jordan including Amman (*Rasaratnam v. Canada (Minister of Employment and*

*Immigration*), [1992] 1 FC 706 at 710, 140 NR 138 (CA); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589, 109 DLR (4th) 682 (CA).

VI. Conclusion

[31] The RPD's decision is transparent, justified and intelligible and falls within the range of possible acceptable outcomes that are defensible based on the facts and the law (*Dunsmuir* at para 47). The application is dismissed.

[32] The parties have not identified a question of general importance and none arises.

**JUDGMENT IN IMM-3536-17**

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

1. The application is dismissed
2. No question is certified.

"Patrick Gleeson"  
\_\_\_\_\_  
Judge

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

**DOCKET:** IMM-3536-17

**STYLE OF CAUSE:** HANEEN N M ABDALQADER AND SABREEN N M  
ABDALQADER v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** JANUARY 29, 2018

**JUDGMENT AND REASONS:** GLEESON J.

**DATED:** APRIL 13, 2018

**APPEARANCES:**

Satnam S. Aujla FOR THE APPLICANTS

Cailen Brust FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Satnam S. Aujla FOR THE APPLICANTS  
Merchant Law Group  
Barristers and Solicitors  
Calgary, Alberta

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario