Federal Court  Cour fédérale

**Date: 20191115**

**Docket: IMM-1920-19**

**Citation: 2019 FC 1438**

**Ottawa, Ontario, November 15, 2019**

**PRESENT: Madam Justice Strickland**

**BETWEEN:**

**AHMED ABDALAMEER ABDALHAMEED AL-SARHAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## JUDGMENT AND REASONS

[1] This is the judicial review of a decision of the Refugee Appeal Division ("RAD") of the Immigration and Refugee Board of Canada, dated February 25, 2019, confirming, pursuant to s 111(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("IRPA"), the decision of the Refugee Protection Division ("RPD") which found that the Applicant is not a Convention refugee or a person in need of protection pursuant to ss 96 and 97, respectively, of the IRPA.

**Background**

[2] The Applicant, Ahmed Abdalameer Abdalhameed Al-Sarhan, is a citizen of Iraq.

[3] The Applicant filed a Basis of Claim form ("BOC") on February 4, 2015. On September 25, 2017, he filed an amendment to his BOC, significantly amending its content. As to the differences in those documents, the Applicant attributed these to his claim that an interpreter in Norway told him to change his true story to the one presented in his original BOC because the true version of events would not be accepted by Canadian immigration authorities. Additionally, he was living with a woman in Canada who exerted significant control over his life. Due to his fear of this woman, he had not advised his lawyer about the inaccuracies in his original BOC until February 25, 2015, when they met without her being present. The lawyer did not prepare and submit the amended BOC until just before the hearing before the RPD.

[4] The Applicant claims that in the summer of 2007 he began working at the Basra Airport in Iraq as a labourer building a water purification plant. He worked for approximately four weeks when, as he was leaving work one day, he was approached by militants affiliated with Muqtada al-Sadr. He states that they did not threaten him explicitly, but told him that he would be killed if he continued working for the British. The men did not identify themselves, but the Applicant says that he knew they worked with Muqtada al-Sadr's group because they were the only militant group in the area.

[5] The Applicant continued to work. About five days later, he received a letter at his family's home telling him to leave his job and the country or he would be killed for having worked with the British. He then fled Basra. He went to Nasriah for a few days, then stayed in

Baghdad until the end of 2007. In his original BOC, he claims that he entered Syria in January 2008 and stayed until the summer of 2011. Due to the escalating civil war in Syria, he was then forced to return to Iraq, where he stayed for three days. In his amended BOC, he states that he entered Syria in March or April 2008, returned to Iraq in May 2008 to obtain his passport, and then returned to Syria on August 11, 2008. In his amended BOC he states that, in 2008, he used a false passport to travel to Turkey and he then flew to Norway via Greece. He made a refugee claim in Norway in 2008, which was refused, and the refusal was upheld in 2011.

[6] In his original BOC, he states that he remained in Norway until December 2014. In his amended BOC, he states that he went to Germany by boat in early 2012 but was intercepted and returned to Norway. In late 2012, he travelled to Denmark intending to fly to Canada using a false passport. He was stopped at the airport and again returned to Norway where he remained until December 2014. He then flew from Norway to Venezuela where he stayed for 23 days; he next flew to Canada via Aruba, travelling on a false Greek passport. He arrived in Canada on January 15, 2015, and immediately claimed refugee protection.

[7] The Applicant claims that since he left Basra in 2007, his friend who helped him get the job at the airport was killed by militants, that his brother was attacked by militants in 2010, and his family in Iraq regularly see militants near their home. Further, that in 2013 another friend was standing outside a café and was approached by a militant who told him that they were still looking for the Applicant.

[8] The Applicant claims that he will be persecuted, face a risk to his life, or face cruel and unusual punishment in Iraq because he is wanted by a militia associated with Muqtada al-Sadr due to his affiliation with Britain.

[9] Although not mentioned in either his original or amended BOCs, in his submissions to the RPD the Applicant also claimed that he will face a serious risk of harm in Iraq because of his identity as a Shia Muslim.

*RPD Decision*

[10] The RPD heard the Applicant's claim on October 5 and November 15, 2017. In its January 11, 2018 decision, the RPD summarized the facts as established by the amended and original BOCs and stated that credibility was the central issue. The RPD found that the Applicant's evidence included multiple instances of revisions, it was vague or evasive, and was inconsistent in regard to key aspects of his claim. Further, the country conditions documentation about militant groups led by Muqtada al-Sadr indicated the groups have changed their focus since the Applicant left Iraq and did not suggest a reason for the militias led by al-Sadr to retain an interest in currently targeting the Applicant. The RPD concluded that there was insufficient credible or reliable evidence to establish that the Applicant faces a serious possibility of persecution or, on a balance of probabilities, a risk to life or risk of cruel and unusual punishment from the militant group that he claimed threatened him in 2007. The RPD also found that the Applicant's profile as a Shia Muslim was not sufficient, in and of itself, to establish a well-founded claim for refugee protection. The RPD provided a detailed analysis supporting its findings and rejection of the Applicant's claim.

**Decision Under Review**

[11] The RAD noted that the Applicant argued on the appeal before it that the RPD erred in in its credibility assessment by failing to designate him as a vulnerable person and in failing to

consider his psychological assessment. Further, that the RPD relied selectively on evidence in assessing the Applicant's residual profile.

[12] The RAD stated that the Applicant had failed to provide full and complete submissions on how the RPD erred and, instead, made submissions providing alternate interpretations of the evidence. Regardless, having independently reviewed the evidence, that the RAD would address the Applicant's arguments.

[13] First, as to his submission that he should have been designated as a vulnerable person, the RAD concluded that the RPD did not ignore or fail to give adequate weight to the psychological report and that Applicant's counsel did not raise, in either written or oral submissions, that the Applicant should be designated as a vulnerable person. The RAD stated that, in the Applicant's testimony before the RPD, he testified in a clear and coherent manner, and that there did not appear to have been any issues with his mental faculties. Further, the psychological assessment did not identify any accommodations necessary for the RPD hearing and did not recommend that the Applicant be designated as a vulnerable person.

[14] The RAD also noted that Dr. Yawny-Burnett, the psychologist who wrote the report, met with the Applicant once on March 5, 2015, and there was no indication of follow-up between then and the November 15, 2017 hearing date, the report did not include a diagnosis, it was largely based on self-reported allegations and symptoms, and it did not resolve the deficiencies and credibility concerns with the Applicant's evidence.

[15] As to the Applicant's residual profile, the RAD stated that it had reviewed the evidence and did not agree with the Applicant that the RPD had erred by relying on selective evidence in

assessing his residual profile. The RPD is presumed to have considered all of the evidence before it, and the RPD's reasons demonstrated a thorough review of the evidence including the Applicant's testimony as to risk in Basra and the objective country conditions concerning the situation for Shia Muslims. The RAD agreed with the RPD that the risk described by the Applicant was speculative and that a general risk of crime from militia groups was faced by others in Basra. The RAD found that the risk that the Applicant may face is not different from the generalized risk of criminality faced by all citizens in Iraq.

[16] The RAD concluded that there was not a serious possibility that the Applicant would be persecuted if he were returned to Iraq and that, on a balance of probabilities, the Applicant was not at risk of a serious possibility of persecution in Iraq and nor would he subjected to a danger of torture, risk to life, or cruel and unusual punishment in Iraq on a balance of probabilities.

**Issues and standard of review**

[17] Although the Applicant identifies a number of issues, being whether the RAD: incorrectly interpreted its role in the review of factual findings made by the RPD; erred in failing to apply the Chairperson's Guideline 8: *Procedures With Respect to Vulnerable Persons Appearing Before the IR B* ("Guideline 8"); unreasonably concluded that no request was made to declare the Applicant a vulnerable person; unreasonably interpreted the evidence regarding the Applicant's mental health; erred in ignoring relevant documentary evidence; and, applied an incorrect test when interpreting s 97 of the IRPA, in my view, the determinative issues fall within the umbrella question of whether the RAD's decision was reasonable.

[18] The Applicant makes no submission as to the standard of review. The Respondent submits, and I agree, that the standard of review is reasonableness (*Vall v Canada (Citizenship and Immigration)*, 2019 FC 1057 at paras 13-15; *Romhaine v Canada (Citizenship and Immigration)*, 2011 FC 534 at para 22; *Correa v Canada (Citizenship and Immigration)*, 2014 FC 252 at para 19 ("*Correa*")).

[19] In judicial review, reasonableness is concerned with the existence of justification, transparency and intelligibility within the decision-making process, and with whether the decision falls within a range of possible, acceptable outcomes, which are defensible in respect of the facts and law (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

**Analysis**

*Role of the RAD*

[20] The Applicant submits that the RAD incorrectly interpreted its role in assessing the factual findings of the RPD. The Applicant submits that although the RAD provided a boilerplate statement that the evidence is to be reviewed on a correctness standard, the reasons indicate that it perceived and applied its role differently and contrary to the relevant jurisprudence (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 ("*Huruglica*"); *Rozas del Solar v Canada (Citizenship and Immigration)*, 2018 FC 1145 at paras 60, 65). The Applicant consequently argues that the RAD "abdicated its responsibility" by failing to reassess the evidence before the RPD.

[21] The Federal Court of Appeal in *Huruglica*, held that the RAD will review decisions of the RPD on a correctness standard, but may defer to the RPD's assessments of credibility or evidence when the RPD is better suited to make findings on those issues:

> [70] This also recognizes that there may be cases where the RPD enjoys a meaningful advantage over the RAD in making findings of fact or mixed fact and law, because they require an assessment of the credibility or weight to be given to the oral evidence it hears. It further indicates that although the RAD should sometimes exercise a degree of restraint before substituting its own determination, the issue of whether the circumstances warrant such restraint ought to be addressed on a case-by-case basis. In each case, the RAD ought to determine whether the RPD truly benefited from an advantageous position, and if so, whether the RAD can nevertheless make a final decision in respect of the refugee claim.
>
> …
>
> [72] Problems will occur when the credibility findings themselves are disputed on appeal, and the RAD has no way to reach a conclusion without endorsing or rejecting those findings. If the RAD can identify an error in situations where, for example, a claimant was not found credible because his story was not plausible based on common sense, the RPD may have no real advantage over the RAD.
>
> …
>
> [103] I conclude from my statutory analysis that with respect to findings of fact (and mixed fact and law) such as the one involved here, <u>which raised no issue of credibility of oral evidence</u>, the RAD is to review RPD decisions applying the correctness standard. Thus, after carefully considering the RPD decision, the RAD carries out its own analysis of the record to determine whether, as submitted by the appellant, the RPD erred. Having done this, the RAD is to provide a final determination, either by confirming the RPD decision or setting it aside and substituting its own determination of the merits of the refugee claim. It is only when the RAD is of the opinion that it cannot provide such a final determination without hearing the oral evidence presented to the RPD that the matter can be referred back to the RPD for redetermination. No other interpretation of the relevant statutory provisions is reasonable.

[Emphasis added.]

[22] The RAD acknowledged this finding in paragraph 13 of its reasons. There, the RAD stated that it is to review the RPD's findings of law, fact (and mixed fact and law), which raised no issue of credibility of oral evidence, applying the correctness standard and citing *Huruglica* in that regard. In paragraph 15, referencing its prior statement that responsibility rests with the Applicant to raise any potential grounds of appeal, the RAD also stated that the onus is on the Applicant to provide full and complete submissions on how the RPD erred. However, that the Applicant had not done so and instead made submissions on alternative interpretations of the evidence. In doing so, the Applicant was essentially asking the RAD to reweigh the evidence, which is not its role. The RAD then went on to point out that the RPD had the opportunity to test the credibility of the allegations of the Applicant and had clearly done so. Upon its review of the RPD's questions and the Applicant's answers as well as the RPD's reasons, the RAD found that it was clear that the RPD had assessed the evidence and weighed it accordingly. The RAD found that the Applicant had failed to demonstrate how the RPD erred in that regard.

[23] In considering this statement, it is important to recall that the RPD identified credibility as the central issue in the Applicant's claim. In paragraph 15 of its reasons, the RAD was addressing the failure of the Applicant to identify an error of the RPD. The RAD also recognized that the RPD had tested the Applicant's credibility and, having reviewed the RPD's questions to and the answers provided by the Applicant as well as the RPD's reasons, it found no error in the RPD's credibility findings. The RAD was thereby indicating deference to the RPD's credibility findings, which it was entitled to exercise. And, significantly, the RAD then went on to state that

it had, nevertheless, independently reviewed the evidence and, in its next paragraphs, addressed the issues raised by the Applicant in his appeal submissions.

[24] While the RAD may not have clearly articulated its approach, I am not persuaded that it failed to understand its role or, given the issues that were raised on appeal and its following analysis, that it abdicated its responsibility to reassess the evidence.

*Applying Guideline 8*

[25] Guideline 8 is intended to provide procedural accommodation for persons identified as vulnerable persons. Vulnerable persons are defined as individuals whose ability to present their cases before the Immigration and Refugee Board of Canada ("IRB") is severely impaired. Counsel for a person who wishes to be identified as a vulnerable person must make an application under the applicable rules of the division specifying the nature of the vulnerability, the type of procedural accommodations sought, and the rationale for those accommodations. A psychological report can assist the IRB in applying Guideline 8 if it addresses a person's particular difficulty in coping with the hearing process, including their ability to give coherent testimony. Such reports should contain the expert's opinion about the person's condition and ability to participate in the hearing process, including any suggested procedural accommodations and why they are recommended (Guideline 8 ss 1.1, 2.1, 7.4, 8.1, and 8.3(g)).

[26] The Applicant submits that the RAD erred when it found that no request was made to declare the Applicant a vulnerable person pursuant to Guideline 8 The Applicant further submits that the RAD chose not to apply Guideline 8, given the lack of reference to it in the RAD's decision.

[27] It is important to view this submission in the context of the evidence.

[28] By letter of March 3, 2015, counsel for the Applicant requested an adjournment of the RPD hearing, which at that time was scheduled for March 13, 2015. The reasons for this included that an appointment had been arranged with Dr. Yawny-Burnett on March 5, 2015. Counsel submitted that the Applicant was a vulnerable person as described in Guideline 8 due to his psychological condition and potentially exploitive living situation, and that evidence of his vulnerability could only be determined following a psychological evaluation which would confirm this as well as the Applicant's ability to recall and describe his experiences as they relate to his claim. The adjournment was granted.

[29] However, the psychologist's report did not support that the Applicant is a vulnerable person or recommend that he be accommodated at the RPD hearing. It concluded:

> **Psychological Formulation**
>
> Mr. Sarhn [*sic*] was referred for an assessment to determine his current psychological functioning. Due to a language barrier, translation services were employed. Mr. Sarhn [*sic*] did respond to all questions posed to him but responses were not overly detailed and at times vague. He presented with consistency of demeanor throughout the interview and did not display significant emotion. Discrepancies with timelines and dates were noted. He reported that he had difficulties with memory.
>
> On the self-report measures he did indicate experiencing symptoms associated with PTSD, moderate depression, and severe anxiety. In the interview, he did not endorse or describe some symptoms to the same degree, or at all in some cases, and as such responses during the interview did not always correspond to his responses on the self-report measures for the same symptom. Based on these discrepancies, as well as his presentation during the interview, a formal determination of mood issues and PTSD cannot be made, or not made, with certainty. And as such, his issues with memory and recall cannot at this time be definitely linked to PTSD or his mood.

> Recall issues may be linked to other issues such as his admission that he had never done well at school.
>
> If he were to return to Iraq it is unclear as to the effect it would have on his mood and coping but it is reasonable to assume that some degree of anxiety would be present. He has been away from Iraq for several years and would appear to have little in the way of a support system there.
>
> If he were allowed to stay in Canada, it is likely that any anxiety and mood issues that may be present would abate due to feelings of safety and resolved concern over his status.

[30] The Applicant points to no evidence that, subsequent to receiving this assessment, his counsel followed up with the RPD seeking to have the Applicant declared a vulnerable person or indicating what accommodations might be required in that regard, either before or at the hearing. And, although post-hearing submissions were made, these do not raise any concern about a lack of accommodation or Guideline 8. In my view, even if the request for an adjournment is also framed as a request for the application of Guideline 8, as the Applicant claims it should be, it was a request that was contingent upon the content of the psychological report which, when received, did not support the premise. In my view, in these circumstances the RPD, and subsequently the RAD, did not err in failing to address the contingent request, which was not followed-up, or in failing to declare the Applicant a vulnerable person.

*Assessment of the psychologist's report*

[31] The Applicant submits that the RAD erred when analyzing the psychologist's report because it failed to understand the reason why it was submitted. The RAD found that the report did not corroborate the Applicant's claim, but the Applicant argues that it was never submitted for that purpose. Rather, it was submitted to explain why the Applicant might not have been able

to provide evidence as clearly as might be ideal. The Applicant further submits that the RAD erred because it discounted the psychologist's report due to a lack of follow up and diagnosis (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 47 "*Kanthasamy*").

[32] In support of his view the Applicant relies on *Yasun v Canada (Citizenship and Immigration)*, 2019 FC 342 ("*Yasun*") on the basis that in that case Justice Grammond found that the RPD erred by assessing the applicant's psychological report only in terms of whether it established that the applicant's experiences were credible. I note, however, that in *Yasun*, the applicant was diagnosed with dementia, probably stemming from a traumatic brain injury, as well as anxiety and depression which affected her memory, and the psychiatrist recommended that the applicant be given a designated representative. Here, the psychologist made no diagnosis or any recommendations. Further, and significantly, nothing in the report supports the Applicant's assertion that he might not be able to provide evidence as clearly as might be wished – beyond the speculative possibility that this may be attributed to his self-reported failure to do well at school. In other words, absolutely nothing in the report supported the Applicant's assertion that his mental health impacted his ability to put forward his evidence.

[33] Similarly, in *Warsame v Canada (Citizenship and Immigration)*, 2019 FC 118, also referenced by the Applicant, the applicant therein adduced two psychiatric reports, both suggesting that the applicant suffered from a depressive disorder and post-traumatic stress disorder. This again can be distinguished on its facts from the matter before me as here the psychologist's report made no diagnosis and no recommendations. As to *Kanthasamy*, there the Supreme Court stated that, the officer, having accepted the diagnosis of post-traumatic stress disorder, adjustment disorder, and depression based on the applicant's experiences in Sri Lanka,

by requiring further evidence of the availability of treatment in Canada or in Sri Lanka, undermined that diagnosis. That is not the circumstance in this matter as the psychologist made no diagnosis.

[34] Significantly, the Applicant's submissions concerning his credibility dealt solely with Guideline 8 and the RPD's assessment of the psychologist's report. The Applicant did not dispute that fact that his testimony was largely inconsistent and evasive. In my view, given the limited conclusions contained in the psychologist's report, the RAD did not err in finding that it could not repair his credibility. A psychological report based on a discredited story cannot rehabilitate that story (*Boyce v Canada (Citizenship and Immigration)*, 2016 FC 922 at para 62).

*Documentary evidence*

[35] The Applicant also argues that the RAD erred because it did not address either of the two threat letters that he submitted. The Applicant acknowledges that the RAD is not required to explicitly identify each piece of evidence reviewed, but cites case law standing for the principle that significant, contradictory evidence must be addressed by the decision-maker (for example *Goman v Canada (Citizenship and Immigration)*, 2012 FC 643 at para 13; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)* (1998), 157 FTR 35 at para 17 (FCTD)). He submits that, at a minimum, the RAD was required to acknowledge the existence of the letters and that failing to do so raises questions as to whether that evidence was considered in the making of the decision.

[36] I note that an appeal before the RAD is not a true *de novo* proceeding and, as noted above, the RAD may rely on the RPD's credibility findings (*Huruglica* at paras 79, 70). Here the

RPD addressed the threatening letters and noted that the Applicant could not explain why there was a second letter that was not mentioned in his BOC, or when his family most recently encountered the militia and received the letter. The RPD drew an adverse credibility finding. The RAD stated that it had independently reviewed the evidence, including an assessment of the RPD's questions and the Applicant's answers, and identified no error in the RPD's credibility findings. The reference to the letters was one of many adverse credibility findings made by the RPD in its well-reasoned decision.

[37] More significantly, the Applicant did not raise the RPD's treatment of the letters as an issue in its appeal submissions made to the RAD, which were limited to his submissions concerning Guideline 8 and the psychologist's report. The reasonableness of a decision by the RAD cannot normally be impugned on the basis of an issue that was not put to it (*Cao v Canada (Citizenship and Immigration)*, 2019 FC 231 at para 47; *Canada (Citizenship and Immigration) v RK*, 2016 FCA 272 at para 6; *Abdulmaula v Canada (Citizenship and Immigration)*, 2017 FC 14 at para 15). In my view, a reviewable error does not arise.

*Section 97*

[38] Finally, the Applicant submits that the RAD applied the incorrect legal test regarding general criminality when assessing the Applicant's claim pursuant to s 97 of the IRPA. Specifically, that the RAD erred when assessing the Applicant's possible risks under s 97 as the RAD's characterization of the law on "generalized risks" at paragraph 26 of its decision was incorrect and inconsistent with *Correa* and *Pineda Cabrera v Canada (Citizenship and Immigration)*, 2017 FC 239 ("*Pineda Cabrera*"). The Applicant submits that the RAD failed to properly assess the risk he faced as someone who had been targeted by militias due to perceived

collaboration with occupying forces, and simply assessed the risk in the context of generalized risk.

[39] In its decision, the RAD stated that the Applicant also argued that that the RPD erred by relying on selective country condition documentary evidence in assessing his residual profile as a Shia Muslim but, having reviewed the evidence, the RAD did not agree. The RAD added that the RPD demonstrated a thorough review of the evidence, particularly the Applicant's testimony, including any threats risks experienced by his family residing in his home city of Basra, a city predominantly controlled by Shia militias, and the objective country conditions documents on the situation for Shia Muslims. The RAD then stated that it agreed with the RPD that the risk described by the Applicant was both speculative and that of a general risk of crime from militia groups which was faced by other persons in Iraq.

[40] The Applicant takes issues with the RAD's next statement that refugee claimants may face a generalized risk of harm even though they may have been repeatedly victimized and faced escalating violence; continued to be pursued after not complying with demands of criminals; and, face reprisals for not complying with the demands of the criminal or after reporting them to the police. The RAD found that the risk the Applicant may face is not different than the generalized risk of criminality faced by all citizens of Iraq.

[41] I note that an applicant making a claim under s 97(1)(b) of the IRPA must establish on a balance of probabilities that their removal to their country of origin would subject them to a risk to their life or to a risk of cruel and unusual treatment or punishment and that they are personally subject to a risk that is not faced generally by the other individuals from or living in that country (*Prophète v Canada (Citizenship and Immigration)*, 2009 FCA 31 at para 3 ("*Prophète*")). The

examination of a claim under s 97(1) necessitates an individualized inquiry to be conducted on the basis of the evidence advanced by the claimant in the context of present or prospective risk to them (*Correa* at para 49, citing *Prophète* at para 7).

[42] When considering the RAD's comment, it is to be kept in mind that the RPD's finding was that the documentary evidence established that there had been significant changes, since the time the Applicant was in Iraq over 10 years ago, to the militia group that the Applicant claimed poses a risk to him. It found there was no credible evidence before it to indicate that previous targets of the Mahdi Army, a militant group affiliated with Muqtada as-Sadr, are currently targeted and, therefore, that the Applicant had not established that he faces persecution or other harm from the Shia militia group. The RPD also noted that it had asked the Applicant to explain, if it were found that the Shia militia group he feared no longer posed a risk, whether he would be safe in his country. In response, he repeatedly stated that there was no risk to him outside the alleged threats in 2007. The RPD found that there was insufficient evidence of sectarian violence potentially targeting a citizen such as the Applicant who has no particular profile – such as a pilgrim, scholar, or imam – drawing attention of Sunni forces, to establish a serious possibility of persecution on that basis. The RPD also stated that, to the extent that militia groups engage in criminal activities such a drug trafficking or armed robberies, as well as the risk from general criminal elements which was acknowledged to be high in Iraq, the potential risk to the Applicant did not appear to be based on sectarian or political grounds. There was no indication that Shia Muslims are particularly targeted for such crimes. Therefore, the risk to the Applicant from such criminal behaviour, if he returned to Basra, would be assed under s 97 of IRPA. Having found that the Applicant had not established that he fears a personal risk from the Shia militia group as

alleged and as he did not assert any other risk, the RPD found that he had not established that he faces a personal risk. Rather, his risk in Basra was based on crime and, as such, was generalized.

[43] Thus, this is not a situation such as *Pineda Cabrera* or *Correa* where it was found to be an error to dismiss personal targeting as merely harm resulting from a generalized risk. Here, there was no evidence that the Applicant had been personally targeted as a consequence of a generalized risk of crime. Further, and regardless of the negative credibility findings of the RPD and the RAD, there was no forward-looking risk from the militia group identified by the Applicant as having targeted him, and no risk as a result of his profile as a Shia Muslim. As a result, even if the RAD did not clearly articulate that the jurisprudence supports that in some circumstances targeting by criminal elements can become a personalized risk, that premise is not relevant to this circumstance and the RAD's statement does not give rise to a reviewable error.

[44] Finally, I would note that while the Applicant's written submissions on judicial review state that during the RPD hearing the Applicant was obviously anxious and had difficulty turning his focus away from the specific actors from whom he had originally fled. Further, that this resulted in the demeanor concerns observed by the RPD and also resulted in the Applicant insisting in his testimony that Iraq, a notoriously dangerous country, would be perfectly safe if not for the militia who threatened him. This position is pure conjecture, intended to deflect the RPD's credibility findings and to reinterpret the Applicant's own evidence, which was damaging to his claim of personalized risk.

[45] In conclusion, for all of the above reasons, I find that the RAD did not make a reviewable error and that its decision was reasonable.

**JUDGMENT in IMM-1920-19**

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

1. The application is dismissed.

2. The parties do not propose a question of general importance for certification and none arises.

"Cecily Y. Strickland"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-1920-19 |
| **STYLE OF CAUSE:** | AHMED ABDALAMEER ABDALHAMEED AL-SARHAN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
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| **DATED:** | NOVEMBER 15, 2019 |

**APPEARANCES:**

| | |
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| Christopher Ezrin | FOR THE RESPONDENT |

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| Attorney General of Canada<br>Toronto, Ontario | FOR THE RESPONDENT |