

Federal Court



Cour fédérale

Date: 20210519

Docket: IMM-4067-20

Citation: 2021 FC 466

[ENGLISH TRANSLATION]

Ottawa, Ontario, May 19, 2021

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

ZAHID

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision dated July 31, 2020, by the Refugee Appeal Division (RAD), in which the RAD upheld the rejection of the applicant's claim for refugee protection because he was neither a Convention refugee nor a person in need of protection under the *Immigration and Refugee Protection Act*, SC 2001, c 27, ss 96–97(1).

[2] The applicant is a citizen of Pakistan, but he was born in Saudi Arabia and has spent his life there. He seeks refugee status for fear of reprisals by Pakistani authorities and tribes for acts committed by his parents 50 years earlier, namely, their marriage, which was viewed unfavourably, and an act of whistle-blowing by his father. The applicant left Saudi Arabia when his visa expired and arrived in Canada in September 2018.

[3] The Refugee Protection Division rejected the applicant's claim for refugee protection on the basis that his fear of agents of persecution had not been established and that it was reasonably open to the applicant to relocate to another part of the country. The RAD concurred.

[4] This application for judicial review addresses the reasonableness of the RAD'S decision with respect to the lack of independent analysis, the evaluation of the evidence and the assessment of the alleged fear and persecution. A "reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85).

[5] The applicant submits that the RAD erred in the evaluation of the evidence of a letter from his brother and the documentary evidence on honour crimes and revenge crimes. The RAD also erred in finding in its analysis of forward-looking and credible fear that the applicant had never been to Pakistan or been directly threatened. The applicant also argues that the RAD failed to consider persecution due to discrimination based on his residual profile in the event of a return

to Pakistan. Finally, given the above, the applicant argues that the RAD failed to conduct an independent analysis.

[6] Applying the standard of correctness and considering the evidence on the record, the RAD began by confirming that the applicant had failed to establish that he was being sought by the Pakistani authorities, given the contradictions between his evidence and the detailed letter from his brother. The letter does not even indicate that the father or the applicant himself are currently being sought by the authorities.

[7] The RAD also noted that the applicant never faced any obstacles in obtaining passports from Pakistan. Nor was there any evidence of complaints filed against him. On this point, the RAD was not persuaded that the lack of contacts in the country reasonably explained the failure to produce copies of complaints. The applicant could have sought the assistance of a lawyer, or even contacts of his father's.

[8] Second, the RAD found that the applicant did not face a serious possibility of persecution in Pakistan. The claim revolves around events that happened more than 50 years ago, involving the applicant's father—who died more than five years ago—and no member of the family has returned to Pakistan since then. Although the applicant alleges that his father told him before his death that his agents of persecution continued to be interested in him, there is no evidence to suggest that the desire for revenge extends to the applicant. Beyond this remote, vague and generalized threat, the applicant does not allege that he himself has been contacted or threatened. Moreover, the evidence, including that relating to honour crimes and revenge crimes, does not

support the allegation that the applicant would suffer hardship because of his parents' actions several decades ago.

[9] Finally, given that the applicant does not face a serious possibility of persecution in Pakistan, there was no need to consider the possibility of an internal flight alternative.

[10] The applicant's principal assertion upon judicial review is that the tribunal's conclusions are not anchored in the evidence, or rather that it simply reached its decision without evidentiary support. However, the burden of proof was on the applicant, and the RAD's reasoning appears clear in light of the record. The RAD conducted a thorough analysis of the issues on a standard of correctness, with an independent assessment of the evidence.

[11] There does not appear to be any error regarding the evaluation of the evidence. The RAD is presumed to have considered and evaluated the entire record. It is not required to accept the applicant's specific explications regarding the evidence in the record (*Karakaya v Canada (Citizenship and Immigration)*, 2014 FC 777 at para 18).

[12] As for the failure to consider persecution due to discrimination based on the applicant's residual profile, this argument does not appear in the appeal record before the RAD and therefore cannot be considered in judicial review proceedings (*Dhillon v Canada (Citizenship and Immigration)*, 2015 FC 321 at paras 23–24). The argument also appears to be an indirect challenge of the lack of the analysis of internal flight alternatives. However, the lack of a serious possibility of persecution in Pakistan was determinative in this case.

[13] For the above reasons, the RAD's decision is reasonable, and the application for judicial review is dismissed.

JUDGMENT in IMM-4067-20

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

There is no question of importance to be certified.

“Michel M.J. Shore”

Judge

Certified true translation
Michael Palles, Reviser

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4067-20

STYLE OF CAUSE: ZAHID v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HEARD VIA VIDEOCONFERENCE

DATE OF HEARING: MAY 12, 2021

JUDGMENT AND REASONS: SHORE J.

DATED: MAY 19, 2021

APPEARANCES:

Stéphanie Valois

FOR THE APPLICANT

Édith Savard

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Stéphanie Valois
Montréal, Quebec

FOR THE APPLICANT

Attorney General of Canada
Montréal, Quebec

FOR THE RESPONDENT