

Federal Court



Cour fédérale

Date: 20211018

Docket: IMM-4530-20

Citation: 2021 FC 1088

Ottawa, Ontario, October 18, 2021

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

TARIK AMARI

Applicant

and

**THE MINISTER OF
CITIZENSHIP AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant is a citizen of Algeria who reports experiencing discrimination in Algeria rising to the level of persecution due to his Amazigh ethnicity. The Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada found the Applicant was neither a Convention refugee nor a person in need of protection, a finding that was appealed to the Refugee Appeal Division [RAD].

[2] The RAD held that the RPD had erred in assessing credibility and concluded the Applicant's evidence and testimony were credible and sufficient to demonstrate he had experienced discriminatory treatment throughout his life due to his ethnicity. However, the RAD found the discrimination did not rise to the level of persecution. The RAD also concluded that the documentary evidence established that the Amazigh community in Algeria faces discrimination and mistreatment but, again, the discriminatory treatment did not rise to the level of persecution for members of the community with the Applicant's profile.

[3] The RAD upheld the RPD finding, concluding the Applicant is not a Convention refugee nor a person in need of protection.

[4] The Applicant applies under section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 for review of the RAD's September 3, 2020 decision. He alleges numerous errors in the RAD's treatment of both his personal evidence of discrimination and the country condition evidence. The Respondent argues the RAD, having considered the evidence before it and with clear and detailed reasons, reasonably concluded the Applicant would not be at risk of persecution in Algeria.

[5] Having considered the parties' submissions, I am not persuaded that the RAD committed any error warranting the Court's intervention.

II. Analysis

A. *Standard of Review*

[6] The parties are both of the view that the RAD's decision is to be reviewed on a reasonableness standard. I agree.

B. *The RAD did not err in its consideration and assessment of the evidence*

[7] The evidence indicates that the Applicant suffers from psychological conditions, including anxiety, and that he satisfies the diagnostic criteria for post-traumatic stress disorder.

[8] The RAD accepted the evidence detailing the Applicant's psychological state and recognized that the discrimination experienced at work had an impact on the Applicant's psychological health. However, the RAD also concluded that the Applicant's psychological state was not necessarily the sole reason for the medical issues described in evidence; the nature of the Applicant's work as an emergency room doctor could not be discounted as a "fractional" cause of his suffering. The Applicant argues this finding is not supported by the evidence and is a medical conclusion that the RAD lacks the expertise to draw. I disagree.

[9] The RAD's statement that the stress of the Applicant's job cannot be "discounted as a fractional cause" of his psychological issues is grounded in the evidence. The Applicant's testimony before the RAD refers, more than once, to the stresses of his work, as does a letter provided by the Applicant's sister. The RAD's statement is consistent with this evidence, it does

not contradict, reject or discount the medical evidence or dispute the medical findings. In noting the possibility that other factors, in addition to workplace discrimination, contributed to the Applicant's health issues, the RAD has reasonably interpreted the evidence before it.

[10] I am also not persuaded that the RAD failed to appreciate, as the Applicant argues, that discrimination in the workplace effectively made it impossible for the Applicant to practice his profession in Algeria. The evidence does not demonstrate that the Applicant was prevented from pursuing his profession in Algeria. In fact, the evidence indicates he continued to work until he left the country despite the discrimination he encountered in the workplace. The Applicant's situation differs significantly from the circumstances in *He v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 1243 [*He*], upon which the Applicant relies. In *He*, the applicant's job was terminated, required work permits were denied and the applicant was permanently deprived of the ability to pursue her profession (paras 6 and 15).

[11] The Applicant further submits that the RAD erred by failing to accurately and fully address the documentary evidence highlighted in written submissions and by failing to consider the totality of the evidence in assessing whether a cumulative risk of persecution had been demonstrated.

[12] The evidence in issue is an extract from a United Nations Human Rights Committee report [UN report]. The report expresses a concern that hate speech by public persons and the rise of racism and xenophobia directed at certain Amazigh populations and migrants in Algeria may have given rise to a climate conducive to acts of racially motivated violence. The Applicant

argues that the RAD was required to address this evidence, as it was relevant to the issue of persecution and directly relatable to the Applicant's evidence, which disclosed an incident where a government official attempted to physically assault him in the workplace.

[13] I can find no fault in the RAD's failure to expressly address this extract from the UN report. The RAD engaged in a detailed consideration of the documentary evidence. The RAD found the evidence establishes the Amazigh population is subject to various forms of discrimination short of persecution, the possible exception being those actively engaged in advocacy for the community. This conclusion is transparent, justified and intelligible. The specific extract the Applicant has identified is neither inconsistent with nor contradictory to the RAD's review of the evidence or the conclusion reached.

[14] Having read and considered the RAD's decision as a whole, I am also satisfied that the RAD did turn its mind to the Applicant's personal profile in its consideration of the objective documentary evidence. Although the structure of the RAD's decision does suggest a compartmentalized approach to the personal evidence of the Applicant on the one hand and the country condition evidence on the other, I am satisfied, upon a careful review of the decision, that the RAD did consider the totality of the evidence. In assessing the risk disclosed by the documentary evidence the RAD identified that individuals who were social or political advocates for the Amazigh community were at possible risk of persecution. The Applicant did not fit this profile. The RAD was not, in my opinion, required to engage in a more detailed analysis where the Applicant's personal profile clearly did not align with the profile of those the RAD had reasonably concluded might face a risk of persecution.

III. Conclusion

[15] For the above reasons, the Application is dismissed. The parties have not identified a serious question for certification and I am satisfied none arises.

JUDGMENT IN IMM-4530-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and
2. No question is certified.

"Patrick Gleeson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4530-20

STYLE OF CAUSE: TARIK AMARI v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

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DATE OF HEARING: OCTOBER 12, 2021

JUDGMENT AND REASONS: GLEESON J.

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