

Federal Court



Cour fédérale

Date: 20220610

Docket: IMM-4003-20

Citation: 2022 FC 869

St. John's, Newfoundland and Labrador, June 10, 2022

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

FARSHID ZEHTAB-JADID

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Farshid Zehtab-Jadid (the “Applicant”) seeks judicial review of the decision of an Officer (the “Officer”), denying his application for permanent residence on Humanitarian and Compassionate (“H and C”) grounds, pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of Iran. He alleged risk in Iran due to his practice of the Baha'i religion.

[3] The Applicant had previously applied for Convention refugee status, on the same grounds. His claim before the Immigration and Refugee Board, Refugee Protection Division (the "RPD") was dismissed in 2014, on the basis that he had status in the Philippines. The RPD made the following observations in its oral reasons:

In regards to Iran, if that was the only country that I was assessing, then like your siblings, you would have refugee protection because the documents are clear relating to Iran that members of the Baha'i community are persecuted. All I have to do would be to look at Exhibit 4, and particularly 12.3 in our National Documentation Package (NDP), which talks about the Baha'i international community and the violence with impunity in Iran.

[4] The decision of the Officer is reviewable on the standard of reasonableness, pursuant to the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.).

[5] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on that decision"; see *Vavilov, supra* at paragraph 99.

[6] The Applicant, among other things, argues that the failure of the Officer to address the risks to him in Iran because of his adherence to the Baha'i religion makes the decision unreasonable.

[7] The Minister of Citizenship and Immigration (the “Respondent”) submits that the decision meets the relevant standard of review.

[8] I agree with the submissions of the Applicant. The Officer did not engage with the issue of risk to the Applicant in Iran. This risk relates to the issue of undue hardship, an element to be considered in an H and C application.

[9] The decision is unreasonable and the application for judicial review will be allowed, the decision will be set aside and remitted to a different officer for redetermination. There is no question for certification.

JUDGMENT in IMM-4003-20

THIS COURT'S JUDGMENT is that application for judicial review is allowed, the decision is set aside and the matter remitted to a different officer for redetermination. There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4003-20

STYLE OF CAUSE: FARSHID ZEHTAB-JADID v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE
BETWEEN SASKATOON, SASKATCHEWAN AND
ST. JOHN'S, NEWFOUNDLAND AND LABRADOR

DATE OF HEARING: MARCH 24, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 10, 2022

APPEARANCES:

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Don Klaassen FOR THE RESPONDENT

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