

Federal Court



Cour fédérale

Date: 20220718

Docket: IMM-3533-21

Citation: 2022 FC 1060

Ottawa, Ontario, July 18, 2022

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

MUHAMMED KARAOGLAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Muhammed Karaoglan (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), finding that he is neither a Convention refugee or person in need of protection, pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of Turkey who fears persecution on the basis of his Kurdish ethnicity and political activities. The RPD made negative credibility findings, based upon an inconsistency in the Applicant's evidence about the dates he was detained.

[3] The decision is reviewable on the standard of reasonableness, following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653.

[4] 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.

[5] The Applicant argues that the decision is unreasonable. The Minister of Citizenship and Immigration (the "Respondent") submits that the decision meets the legal standard.

[6] Although the Applicant challenges other aspects of the decision, in my opinion, the dispositive issue in this proceeding is the negative credibility finding.

[7] In my opinion, the RPD unreasonably impugned the Applicant's credibility on the basis of one inconsistency.

[8] I also find that the RPD unreasonably failed to consider documentary evidence submitted by the Applicant's father independent of this negative credibility finding.

[9] In the result, the application for judicial review will be allowed, the decision will be set aside and the matter remitted to a new panel of the RPD for redetermination.

JUDGMENT in IMM-3533-21

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter remitted to a new panel of the Immigration and Refugee Board, Refugee Protection Division for redetermination.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3533-21

STYLE OF CAUSE: MUHAMMED KARAOGLAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

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

DATE OF HEARING: JUNE 14, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JULY 18, 2022

APPEARANCES:

Clarissa Waldman FOR THE APPLICANT

Nicole Rahaman FOR THE RESPONDENT

SOLICITORS OF RECORD:

Mithoowani Waldman FOR THE APPLICANT
Immigration Law Group
Barrister & Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario