Federal Court  Cour fédérale

Date: 20230328

Docket: IMM-3568-22

Citation: 2023 FC 425

Ottawa, Ontario, March 28, 2023

PRESENT: Madam Justice Walker

BETWEEN:

MOHAMMED NUREY IBRAHIM

Demandeur

and

LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION

Défendeur

JUDGMENT AND REASONS

[1] Mr. Ibrahim is a citizen of Eritrea. He seeks judicial review of a decision of a senior immigration officer dated September 10, 2020, rejecting his Pre-Removal Risk Assessment (PRRA) application. The officer found that Mr. Ibrahim had not demonstrated the existence of a personal and objective risk of persecution, torture or serious harm in Eritrea pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*).

[2] During the hearing of this application, which took place in French, the parties agreed that my judgment would be issued in English, consistent with the majority of the documents in the record.

[3] For the reasons that follow, the application is dismissed.

I. Background

[4] Mr. Ibrahim was born in Saudi Arabia in 1976 but is not a citizen of that country. His Eritrean citizenship derives from his parents, who are both citizens of Eritrea. Mr. Ibrahim completed elementary school in Saudi Arabia before going to Eritrea to attend high school.

[5] Mr. Ibrahim was forced to join the Eritrean national service in 1991 as a guard to new recruits. He attempted to escape in 2000 but was caught and detained for over two months. Mr. Ibrahim successfully escaped Eritrea in 2001 and travelled on foot to Sudan. From there, he returned to Saudi Arabia where he remained until he was laid off from his job in 2016. Mr. Ibrahim then travelled to the United States (US).

[6] Mr. Ibrahim attempted to claim refugee protection in Canada in January 2017. His claim was denied as he was ineligible pursuant to paragraph 101(1)(e) of the *IRPA*, having entered Canada from a designated safe third country. Mr. Ibrahim was returned to the US where he was detained for nine months.

[7] Mr. Ibrahim made a second claim for protection in Canada on November 7, 2018 but was again ineligible to do so, now pursuant to paragraph 101(1)(c) of the *IRPA*. He was then offered a PRRA.

[8] Mr. Ibrahim states that he fears returning to Eritrea for four reasons: he is Muslim; he is a member of the Jeberti ethnic group; he deserted his national service; and, he would return as a failed asylum seeker.

II. Decision under Review

[9] The officer first assessed Mr. Ibrahim's profile as a Muslim of Jeberti ethnicity and his argument that he would be unable to practice his religion in Eritrea. The officer reviewed a 2019 US Department of State Report on International Religious Freedom that estimates the Eritrean Muslim population to be between 37% and 49% Sunni Muslim. The US report notes that leaders and followers of all denominations regularly attend worship services and religious celebrations. The officer also cited objective evidence highlighted by Mr. Ibrahim that indicates the Jeberti are largely Muslim and that, although they have been described as marginalized and face some discrimination, the land issues that persisted in the 2009-2010 era have abated. Finally, the officer considered a letter from the Eritrean Nahda Party, an opposition party operating out of Ethiopia, but gave the letter little probative value in demonstrating the risks alleged by Mr. Ibrahim because it does not speak to his role or activities in the party, nor does it state whether he is still involved in the party. The letter indicates only that Mr. Ibrahim had been a member since 2008.

[10] In summary, the officer concluded that Mr. Ibrahim would be able to practice his faith should he return to Eritrea and that the remaining marginalization and discrimination of the Jeberti does not amount to persecution.

[11] The officer then turned to Mr. Ibrahim's fear of returning to Eritrea because he will be viewed as a deserter and failed asylum-seeker. The officer cited two UK Home Office, Country Information and Guidance reports (Eritrea) (2015 and 2018). The 2015 UK report indicates that a person who leaves Eritrea illegally, even a draft evader, is able to return if they sign a letter of apology and pay an outstanding 2% diaspora tax. The 2018 UK report, referring to an earlier 2016 source, states that deserters apprehended within Eritrea are usually returned to their military or civilian unit and punished extra judicially by their superiors. However, the treatment of deserters appears to have become less harsh in recent years.

[12] The officer acknowledged that the 2018 UK report notes that there may be authorities who are unwilling to accept the apology letter if the person returning is a common criminal. However, there is no evidence that Mr. Ibrahim has been charged or convicted of any crime in Eritrea. The officer also stated that there is insufficient evidence that the Eritrean authorities are aware of Mr. Ibrahim's refugee claim. Accordingly, the officer found that Mr. Ibrahim had not demonstrated he would face a forward-looking risk in returning to Eritrea as a failed refugee claimant.

[13] The officer recognized that the situation in Eritrea is not ideal. There are human rights infringements by security forces, deficiencies in due process and infringements on religious

rights. However, the officer concluded that Mr. Ibrahim had not discharged his onus of demonstrating the existence of a personal and objectively identifiable risk in Eritrea and is not, therefore, either a Convention refugee or a person in need of protection pursuant to sections 96 and 97(1) of the *IRPA*.

III. Analysis

[14] Mr. Ibrahim argues that the officer's analysis of the risks he will face in Eritrea, and the resulting refusal of his PRRA application, is not reasonable because the officer erred in their assessment of the documentary evidence and the decision is not justified. The parties submit that the Court must review the decision for reasonableness and I agree *(Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 25 (*Vavilov*); *Ahmed Houssein v Canada (Citizenship and Immigration)*, 2022 FC 529 at para 16).

[15] The officer addressed each of the four grounds of persecution feared by Mr. Ibrahim should he be forced to return to Eritrea. In my view, the determinative issue in this application is the question of Mr. Ibrahim's fear of imprisonment and punishment due to his desertion from the Eritrean national guard in 2001.

[16] The officer's analysis of the remaining three grounds (that Mr. Ibrahim is Muslim, of Jerberti ethnicity and would return as a failed asylum seeker) are addressed by the officer in a detailed manner that reasonably reflects the country condition documentation and fully responds to Mr. Ibrahim's submissions and evidence. I find that Mr. Ibrahim has identified no shortcomings in the reasons of the officer in these regards that warrant the Court's intervention.

[17] The parties' arguments regarding the officer's analysis of the conditions facing those who evade or desert national service centre on the scope of objective evidence the officer was required to reference in their decision. Mr. Ibrahim submits that the officer erred by (1) relying on outdated information from the National Documentation Package (NDP); and (2) failing to take into account contradictory country condition evidence in the NDP. He states that the officer was required to explain why they preferred excerpts from the NDP that suggest a lessening of adverse consequences due to evasion of national service when there is clear evidence to the contrary (*Berhe v Canada (Citizenship and Immigration)*, 2021 FC 1001 at para 57 (*Berhe*)).

[18] I disagree with Mr. Ibrahim's submissions for the following reasons. First, despite his statement that the officer's use of the 2015 UK report "is questionable considering a more recent version" exists, the officer specifically referred to and considered the 2018 UK report. I find no reviewable error in the fact that the officer first referred to the 2015 UK report and immediately turned to the 2018 UK report, setting out in the decision a longer excerpt from the more recent document.

[19] Second, Mr. Ibrahim includes in his written submissions the passage from the 2015 UK report that appears in the decision and compares it to a section of the 2018 UK report that the officer did not reference. He argues that the 2018 passage on which he relies paints a very different picture. The particular excerpt in Mr. Ibrahim's memorandum states that a deserter "may avoid punishment in the form of detention and ill-treatment" but "it is likely that he or she will be assigned to perform (further) national service, which, is likely to amount to treatment contrary to Articles 3 and 4 of the ECHR [European Convention on Human Rights]".

[20] I am not persuaded by Mr. Ibrahim's argument. The excerpt from the 2018 UK report contained in the decision does, in fact, acknowledge the risk of further national service:

> 12.3 According to most sources consulted for this report [itself a 2016 EASO compilation report], deserters apprehended within Eritrea are usually returned to their military unit or civilian dignity and punished. These punishments are imposed extrajudicially by their superiors. There is no possibility of appeal.

[21] The 2018 UK report states that the treatment of deserters appears to have become less harsh in recent years. Also, punishment imposed on those deployed in the civilian part of the service is less severe and, importantly, "[a]s deserters are not tracked down systematically, a number of them effectively go unpunished".

[22] Mr. Ibrahim would have the Court prefer his excerpt from the 2018 UK report without reference to other parts of the same report, rather than those cited by the officer. With respect, this is not Court's role nor does it reflect the jurisprudence. This case can be distinguished from that of *Berhe* in which the officer failed to consider the impact of conflicting evidence. Here, the officer reasonably assessed the diminution of adverse consequences to deserters returning to Eritrea against the continuing possibility of apprehension, punishment and return to national service. Similarly, the officer did not fail to engage with the more recent information as in *Jesuthasan v Canada (Citizenship and Immigration)*, 2018 FC 142 at paragraph 25.

[23] Mr. Ibrahim also includes passages from other reports regarding Eritrea in his written submissions. However, an officer is not required to refer to every excerpt or report in the objective evidence that may be relevant to an applicant's situation as long as the analysis is balanced and takes into account conflicting or contradictory sources (*Hamid v Canada*

(Citizenship and Immigration), 2022 FC 886 at paras 21-23). Mr. Ibrahim strongly and genuinely disagrees with the officer's assessment of the evidence in the NDP but has not convinced me that the assessment is unreasonable within the *Vavilov* framework.

IV. Conclusion

[24] In summary, the PRRA officer's finding that Mr. Ibrahim had not demonstrated the existence of a personal and objective risk of persecution, torture or serious harm in Eritrea is justified and reasonable in light of the submissions and evidence. The officer's analysis is internally coherent and intelligible (*Vavilov* at para 85). As a result, I will dismiss this application for judicial review.

[25] No question for certification was proposed by the parties and none arises in this case.

JUDGMENT IN IMM-3568-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"Elizabeth Walker"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE:	MOHAMMED NUREY IBRAHIM v LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION
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