

Federal Court



Cour fédérale

**Date: 20250908**

**Docket: IMM-7839-24**

**Citation: 2025 FC 1474**

**Ottawa, Ontario, September 8, 2025**

**PRESENT: Madam Justice Pallotta**

**BETWEEN:**

**CLOUDEEN NAJM MOHD HUSSEIN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] In this application for judicial review, Ms. Hussein challenges a decision made by the Immigration and Refugee Board's Refugee Protection Division (RPD). The RPD rejected Ms. Hussein's claim for refugee protection because it found that she is a stateless person who had not established a risk of persecution or harm, within the meaning of sections 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], against her country of former habitual residence, the United Arab Emirates (UAE). Ms. Hussein was barred from appealing the

RPD's decision to the Refugee Appeal Division because she entered Canada from the United States under an exemption to the Safe Third Country Agreement.

[2] Ms. Hussein alleges that the RPD's decision was unreasonable, and she asks the Court to set it aside.

[3] Ms. Hussein does not challenge the RPD's finding that she would not face persecution or risk in the UAE. Rather, she alleges it was an error for the RPD to consider the UAE as a country of reference when she cannot return there because she no longer has immigration status. She suggests she is not stateless, because she holds a Palestinian identity document, and contends the RPD should have considered the Occupied Palestinian Territory as a country of reference and assessed her evidence about the violence she had suffered there by her male relatives as well as other risks she would face if she returned. Ms. Hussein states the RPD did not consider Palestine as a country of reference simply because she had not resided there for a long period of time, and did not ask her if she would be entitled to live there. She alleges the RPD erred by not considering the evidence of her risks in Palestine.

[4] The guiding principles for reasonableness review are set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65. A reviewing court's role is to conduct a deferential but robust form of review that considers whether the administrative decision, including the reasoning process and the outcome, was transparent, intelligible, and justified: *Vavilov* at paras 13, 99.

[5] For reasons that substantially agree with the respondent's submissions, I must dismiss this application. Ms. Hussein has not established that the RPD's decision was unreasonable.

[6] The law is clear that to be a Convention refugee or person in need of protection, a stateless person must show that they would suffer persecution or harm in their country of former habitual residence: *IRPA*, ss 96(b), 97(1); *Thabet v Canada (Minister of Citizenship and Immigration)*, [1998] 4 FC 21 (FCA) at para 30; *Iraqi v Canada (Citizenship and Immigration)*, 2019 FC 1049 at para 23. As noted in *Iraqi* (at paragraph 23, citations omitted), the test has two parts:

[23] ...The first part of the test is to establish the country or countries of the claimant's former habitual residence. The second part of the test (which is at issue here) requires that the claimant must be outside the country of his or her former habitual residence or unable to return to that country by reason of a well-founded fear of persecution for a Convention ground. As stated by the Federal Court of Appeal [in *Thabet*], statelessness does not give any advantage to obtain refugee protection. In order to be granted refugee protection, a stateless person that is outside his or her country of former habitual residence must be in that situation by reason of a well-founded fear of persecution based on a Convention ground.

[7] In my view, the RPD reasonably determined that the UAE is Ms. Hussein's only country of former habitual residence. Ms. Hussein was born and raised in the UAE. She never lived in Palestine (or Jordan, the country that issued her passport) and the RPD found that she only visited these countries for "a total of eight brief, temporary visits over the course of her lifetime that she and her family members knew at all times to be brief and temporary." Ms. Hussein disagrees with this finding, but she has not established a reviewable error.

[8] Furthermore, as the respondent points out, if the RPD had found Palestine to be a second country of former habitual residence, this would not have changed the result. A stateless refugee claimant must show that they would suffer persecution in any country of former habitual residence and that they could not return to any of their other countries of former habitual residence: *Thabet* at para 30; *Iraqi* at para 23. The RPD's finding that Ms. Hussein would not face risk in the UAE, which is unchallenged on judicial review, is determinative.

[9] Ms. Hussein's arguments that she is not stateless because she has a Palestinian identity document and/or that the UAE should not be considered a country of former habitual residence because she cannot return are new arguments that are inconsistent with the position she took before the RPD.

[10] In her Basis of Claim (BOC) narrative, Ms. Hussein alleged that she is a stateless Palestinian carrying a temporary Jordanian passport. The RPD accepted her allegation, which was consistent with the National Documentation Package (NDP) evidence. The RPD found that (i) Ms. Hussein's Jordanian passport was temporary and indicative of statelessness, and (ii) the NDP for the Occupied Palestinian Territory indicates that Jordanians of Palestinian origin cannot obtain Palestinian passports, which can be issued only to Palestinians who can prove they live in the occupied territories.

[11] Ms. Hussein did not argue to the RPD that the UAE is not a country of former habitual residence—to the contrary, her submissions acknowledged that the UAE is a country of former habitual residence. However, she argued that she would not be able to return to the UAE because

she lacks immigration status and would be denied re-entry. The RPD accepted that Ms. Hussein lacks immigration status in the UAE but noted that a denial of a right of return is insufficient—the reasons for denial must be assessed and must show persecutory intent or conduct related to a Convention ground: *Iraqi* at para 13, citing *Thabet*. The RPD considered the evidence before it and found that Ms. Hussein’s BOC narrative and testimony were clear that the only reason she cannot return to the UAE relates to a law of general application. Ms. Hussein herself did not allege persecution or a personalized risk in the UAE—this was something her counsel raised in submissions. The RPD found that counsel’s arguments were based on unsupported speculation, and Ms. Hussein had not credibly established a well-founded fear of persecution or personalized risk of harm in the UAE in relation to the lack of a legal right to return. Again, Ms. Hussein does not challenge the RPD’s finding in this regard.

[12] The parties did not propose a question for certification. I find there is no question to certify.

**JUDGMENT IN IMM-7839-24**

**THIS COURT'S JUDGMENT is that:**

1. This application for judicial review is dismissed.
2. There is no question for certification.

"Christine M. Pallotta"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-7839-24

**STYLE OF CAUSE:** CLOUDEEN NAJM MOHD HUSSEIN v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 6, 2025

**JUDGMENT AND REASONS:** PALLOTTA J.

**DATED:** SEPTEMBER 8, 2025

**APPEARANCES:**

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Eli Lo Re	FOR THE RESPONDENT

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