Federal Court  Cour fédérale

Date: 20250925

Docket: IMM-17498-24

Citation: 2025 FC 1581

Toronto, Ontario, September 25, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

GULLFAM HUSSAIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] In the Applicant's Pre-Removal Risk Assessment (PRRA) application, he alleged a risk of honour crimes from his family members in Pakistan based on his intimate relationship with his niece. The Officer who refused the application determined that he did not submit sufficient evidence to rebut the presumption of state protection.

[2] In this application for judicial review, the Applicant argues, among other grounds, that reasonableness review requires an elevated standard based on his status as a self-represented litigant in his PRRA application.

[3] For the reasons below, there is no stricter requirement of reasonableness review based on the Applicant's status as a self-represented litigant in the application. The Officer's decision is reasonable and the application for judicial review is dismissed.

II. Background

[4] The Applicant is a Pakistani citizen who began an intimate relationship with his niece while he was in the United Kingdom as a student. His niece is ten years younger than the Applicant and was a minor when the relationship began.

[5] As a result of this relationship, in 2017 the Applicant was convicted in the United Kingdom for "Adult sexual activity with a female child family member 13 to 17 – offender over 18 – penetration" and he was sentenced to six years' imprisonment. He was placed on the United Kingdom's sex offender registry and released from prison after three years on conditions. Prior to serving the remainder of his sentence, he moved to Spain in 2020 and then relocated to Canada on a visitor visa in 2023. He did not disclose his criminal history on his Canadian visa application or upon his entry to Canada.

[6] The Applicant has been found inadmissible to Canada on the grounds of serious criminality and misrepresentation. Based upon his fears of honour crimes from his family in Pakistan, he filed

an application for a PRRA in 2024. In support of this application, the Applicant provided evidence of threats from his niece's family in the United Kingdom, and evidence that legal proceedings with the police had been initiated by his family members in Pakistan.

[7] The Officer referred to two types of evidence to support the decision: country condition documentary evidence regarding honour crimes in Pakistan, and evidence specific to the Applicant which was intended to establish his risk of honour crimes.

[8] The Officer found that the basis of the Applicant's fear was family threats due to his intimate relationship with his niece, and that there was no nexus to the Convention refugee definition under section 96 of the *Immigration and Refugee Protection Act, SC* 2001, c 27 (*IRPA*). The Officer's analysis focused on whether the Applicant established risks described in section 97 of the *IRPA*.

[9] The Officer then concluded that the country condition documentary evidence did not rebut the presumption of state protection described by the Supreme Court of Canada (SCC) in *Canada (Attorney General) v Ward*, 1993 CanLII 105 (SCC), [1993] 2 SCR 689.

[10] The Officer also concluded that the Applicant's personal evidence did not rebut the presumption of state protection. The Officer found that the Applicant's relatives did not have the level of influence asserted in the Applicant's evidence, and that there was only evidence of legal means used to pursue the Applicant in Pakistan.

III. Issue

[11] The sole issue in this application is whether the refusal of the application is reasonable with respect to the evidentiary constraints bearing on the decision (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*) at paras 125-126). The Applicant raises the following specific issues:

- was the Officer's determination of no nexus to the Convention refugee definition reasonable?
- did the Officer reasonably exercise the duty to consider country condition evidence relevant to the application?
- did the Officer overlook or misapprehend the Applicant's personal documentation rebutting the presumption of state protection?

IV. Analysis

[12] The Officer's finding of no nexus to the Convention refugee definition is reasonable. The assessment of the general documentary evidence regarding honour crimes in Pakistan is also reasonable based on the country condition evidence the Officer consulted. Finally, the Officer did not fail to account for relevant evidence or misapprehend the Applicant's personal evidence.

A. *The Officer's finding of no nexus to the Convention refugee definition was reasonable*

[13] As stated above, the Officer found no nexus to the Convention refugee definition and focused their analysis on the Applicant's personal risks under section 97 of the *IRPA*. The

Applicant challenges the reasonableness of this finding by proposing a nexus to the "religion" and/or "membership in a particular social group" grounds of the definition.

[14] The Applicant was self-represented in his PRRA application, and these grounds were not advanced in submissions to the Officer. Before the Court, counsel for the Applicant was unable to describe the proposed social group to which the Applicant belongs. There is accordingly no basis for the Court to assess the alleged unreasonableness of the Officer's finding on this point.

[15] Regarding the Convention ground of religion, counsel for the Applicant agreed at the hearing of the application that even if the Applicant was not religious, his feared persecutors would be motivated to pursue him based on their disapproval of his relationship. It follows that it was reasonable for the Officer to identify the Applicant's relationship and not his religion as the reason for his feared harm.

[16] The Officer's finding of no nexus to a Convention ground was therefore reasonable.

B. *The Officer's assessment of country condition documentary evidence was reasonable*

[17] No documentary evidence on country conditions was submitted by the self-represented Applicant in the PRRA application. The Officer therefore took the initiative to consult three recent sources on country conditions: an Australian Department of Foreign Affairs and Trade (DFAT) Country Information Report on Pakistan from 2022; a United Kingdom Home Office Report on Pakistan from 2023; and a report on honour crimes from the Canadian Immigration and Refugee Board (IRB) from 2024.

[18] The Officer found that the country condition evidence was "mixed" regarding the availability of Pakistani state protection from non-state actors. Regarding honour crimes specifically, the Officer found evidence that state protection was limited but the Officer noted that this evidence focused "mainly" on women. This was a reasonable assessment of the evidence reviewed by the Officer, and it led to the Officer's conclusion that the documentary evidence did not rebut the presumption of state protection.

[19] In this judicial review application, counsel for the Applicant presented country condition evidence describing Pakistani men who have experienced honour crimes. This evidence was not before the Officer, but the Applicant alleges that the Officer's failure to find it and consider it was unreasonable.

[20] It is well established that judicial review applications proceed based on evidence that was before the decision-maker, subject to exceptions which do not apply to this application (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 (*Access Copyright*) at paras 19-20). The Applicant effectively advances a new exception to this principle, based on the duty of PRRA officers to consider updated country condition evidence.

[21] The duty of PRRA officers to consider recent, credible country condition evidence is recognized in this Court's jurisprudence (*Rizk Hassaballa v Canada (Citizenship and Immigration)*, 2007 FC 489 (*Rizk Hassaballa*) at paras 33-38; *Jama v. Minister of Citizenship and Immigration*, 2014 FC 668 (*Jama*) at paras 17-18) and it is not limited to material filed by an Applicant (*Rizk Hassaballa* at para 33; *Jama* at para 17). The duty is grounded in international

standards on refugee protection as described in the UNHCR handbook, which states that "the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner" (United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, UN Doc HCR/1P4/ENG/REV.3 cited in *Jama* at para 18).

[22] The Applicant's argument raises the question of the extent of a PRRA officer's duty to seek and consider country condition evidence beyond country condition evidence submitted by an applicant, if any. In my view, that duty is best anchored in the principles of procedural fairness, rather than reasonableness review.

[23] First, the duty involves the conduct of a public authority in examining risks which engage Canada's *non-refoulement* obligations under international law. Whether such a risk examination is inappropriately truncated, based on outdated or irrelevant evidence, or appears biased implicates procedural fairness rather than the substantive reasonableness of reasons (*Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 (*Baker*) at para 45; *Saint-Félix v Canada (Citizenship and Immigration)*, 2019 FC 936 at paras 2-4, 22; *Chudal v Canada (Citizenship and Immigration)*, 2005 FC 1073 at paras 19-21).

[24] Second, the PRRA risk examination process necessarily entails the participatory rights of an applicant. As the final consideration of risk closely preceding removal, the effectiveness of the examination requires that an applicant's feared risks upon removal are thoroughly examined and considered. This implicates the very purpose of participatory rights which "is to ensure that administrative decisions are made using a fair and open procedure, appropriate to the decision

being made and its statutory, institutional, and social context, with an opportunity for those affected by the decision to put forward their views and evidence fully and have them considered by the decision-maker" (*Baker* at para 22).

[25] Finally, using the principles of procedural fairness to evaluate the duty of a PRRA officer to consult country condition evidence appropriately allows for a reviewing court to consider admitting new evidence to demonstrate "procedural defects that cannot be found in the evidentiary record of the administrative decision-maker, so that the judicial review court can fulfil its role of reviewing for procedural unfairness" (*Access Copyright* at para 20). It avoids the awkwardness and potential impropriety of submitting new evidence for the purpose of evaluating reasonableness, which was done in the present case.

[26] Given the varied nature of PRRA applications, the specific requirements of procedural fairness on a PRRA officer's obligation to consult country condition evidence will vary depending on the particular context. Some PRRA applications are the first and only risk assessment, while others are the last of several risk reviews. Some PRRA applications involve little to no previously submitted country condition evidence, and others contain evidence of newly developed circumstances involving high risk. Given that procedural fairness was not argued in this application, it is not necessary to consider the contextual *Baker* factors applicable to the Applicant's circumstances.

[27] For the Applicant's present argument, the wide scope of a PRRA officer's duty advanced for the purpose of reasonableness review would result in regular success on judicial review for any litigant who could demonstrate that there exists some relevant evidence somewhere not mentioned

by an officer, even though that evidence was never placed before the officer. It would turn judicial review into a *de novo* review, undermining the essential purpose of judicial review, which "is the review of decisions, not the determination, by trial *de novo*, of questions that were not adequately canvassed in evidence at the tribunal or trial court" (*Access Copyright* at para 19 quoting *Gitxsan Treaty Society v Hospital Employees' Union*, 1999 CanLII 7628 (FCA) at 144-45).

[28] Ultimately, reasonableness review for evidentiary flaws must be constrained by the evidence that was before the decision-maker; it cannot proceed by measuring the decision against all relevant evidence that exists anywhere, or evidence that is capable of being subsequently adduced by investigative litigants on judicial review. The benefit of using the principles of procedural fairness to define a PRRA officer's investigatory obligation is that the scope of the duty is circumscribed by rules of fairness, foreclosing a reliance on outdated, irrelevant or biased evidence, or the neglect of highly relevant available evidence.

[29] For clarity, reasonableness review is still available for the review of a PRRA officer's use of country condition evidence, once that evidence has been selected. But standards of procedural fairness are appropriate to govern a PRRA officer's choice of country condition evidence.

[30] The Applicant further argues that his status as a self-represented litigant imposed an elevated duty on the Officer to seek out and consider evidence beyond the recent, credible evidence that the Officer selected. The Officer's failure to do so is a failure of reasonableness, according to the Applicant. I disagree.

[31] An applicant's status as self-represented was not identified by the Supreme Court of Canada as a contextual constraint for the purpose of reasonableness review (*Vavilov* at paras 105-135), nor is it discussed as a factor in assessing the reasonableness of a decision-maker's grasp of the evidentiary record (*Vavilov* at paras 125-126). While the contextual constraints discussed in *Vavilov* are not exhaustive (*Vavilov* at para 106), for the reasons outlined below the status of a litigant as self-represented is more appropriately considered as a contextual factor for establishing procedural fairness standards rather than reasonableness standards. This is consistent with the practice of this Court and others (*Nwankwo v Canada (Minister of Citizenship and Immigration)*, 2024 FC 1827 at paras 29-37).

[32] The appropriate concern for self-represented litigants is that they should face no barriers in obtaining access to justice as a result of their self-represented status. Once access to justice is provided, however, the scales of justice are not realigned to provide self-represented applicants with an evidentiary advantage in the conduct of reasonableness review—including an advantage over represented applicants through the opportunity to present new evidence on judicial review. While procedural accommodations are appropriate and necessary for the purposes of ensuring access to the law for self-represented litigants, the law itself must be applied uniformly and fairly.

[33] *Jama* does refer to self-represented status as a basis on which to impose a heightened duty on officers (*Jama* at paras 19-22). However, the duty in question was the duty to consider grounds of refugee protection not directly advanced by an applicant based on their profile, not the scope of an officer's evidentiary obligation. Moreover, Justice Yves de Montigny (as he was then) relied on Federal Court of Appeal jurisprudence regarding procedural fairness rather than reasonableness

review (*Jama* at para 21 citing *Hillary v Canada (Minister of Citizenship and Immigration)*, 2011 FCA 51 at para 34).

[34] In the absence of a challenge based on procedural fairness, the Officer's evidentiary duty in the present case was discharged by consulting the recent, credible sources they chose. The new evidence adduced by the Applicant in this judicial review application is not appropriately before the Court and will not be considered for the purpose of assessing the reasonableness of the decision.

C. *The Officer's determination of a lack of risk to the Applicant based on his personal evidence was reasonable*

[35] Following its assessment of documentary evidence regarding country conditions, the Officer assessed the Applicant's personal risk based on his personal documentary evidence. The Officer found:

- There was insufficient evidence that the Applicant's relatives hold the level of influence or political authority in Pakistan claimed by the Applicant;
- The police reports filed by the Applicant's family members were actually complaints in response to the Applicant's threats toward them, and in any case reflect a use of ordinary laws rather than unjust targeting and persecution of the Applicant;
- The *fatwa* issued against the Applicant called for the end of his relationship, rather than violence;

– The presumption of the availability of state protection for the Applicant had not been rebutted.

[36] The Applicant argues that the Officer's conclusion ignores four pieces of documentary evidence establishing a personal risk. In my view, the Officer's decision did not unreasonably overlook this evidence.

(1) Two witness statements given to the police

[37] The Applicant provided two witness statements made to police authorities which were not specifically mentioned by the Officer. However, this evidence does not pertain to a central issue and the Officer's failure to specifically mention it does not render the decision unreasonable. The witness statements demonstrate attempts to engage a legal process against the Applicant and are not a central part of the factual matrix related to the Applicant's fear of honour crimes. Moreover, the statements are in essence requests for police assistance to address the threats which the Applicant made over the phone before the witnesses.

(2) A newspaper announcement of family estrangement

[38] The newspaper announcement placed by the Applicant's brother was also not specifically mentioned by the Officer. However, the announcement reflects a public declaration of the Applicant's estrangement from his family, who declare their "indifference" and desire to have "nothing to do" with the Applicant. It does not reflect a threat to the Applicant and the Officer's failure to mention this evidence is not a sufficiently central or significant shortcoming in the decision.

(3) A *fatwa* issued against the Applicant by his family

[39] The Applicant is incorrect that the Officer failed to consider the *fatwa* placed against him. The Officer specifically and reasonably noted that the *fatwa* does not encourage violence but merely calls for the end of the Applicant's intimate relationship with his niece.

(4) A First Information Report (FIR) and other police reports filed by the Applicant's brother

[40] The Applicant is again incorrect that the Officer failed to mention the police reports and complaints filed by the Applicant's family. The Officer specifically referred to these documents but did not find them relevant to the Applicant's alleged risk because they were requests to engage ordinary laws of general application. The Officer concluded that none of these documents reveal a risk of unjust targeting or persecution of the Applicant.

V. Conclusion

[41] The Applicant's status as a self-represented litigant in his PRRA application did not impose an evidentiary duty on the Officer beyond consulting recent, credible sources of documentary evidence on country conditions. Nor did the Applicant's status as self-represented implicate a more stringent approach to reasonableness review in this judicial review application. The Officer also did not unreasonably deal with the Applicant's evidence of personal risk. Any shortcomings in the decision are not sufficient to render it unreasonable on this basis.

JUDGMENT in IMM-17498-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification and no order regarding costs.

"Michael Battista"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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