

Federal Court



Cour fédérale

Date: 20100223

Docket: IMM-3846-09

Citation: 2010 FC 211

Ottawa, Ontario, February 23, 2010

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

LEVIS ZAATREH

Applicant

and

**THE MINISTER OF
CITIZENSHIP AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (Act) for judicial review of a decision of the Refugee Protection Division (RPD) of the Immigration and Refugee Board, dated July 7, 2009 (Decision) which refused the Applicant's application to be deemed a Convention refugee or a person in need of protection under sections 96 and 97 of the Act.

BACKGROUND

[2] The Applicant is a citizen of Israel of Arab ethnicity who is a practicing Christian. His refugee claim is based on a fear of being persecuted by an extremist Muslim group.

[3] The Applicant was first attacked on Easter Sunday, 1999 as he was leaving a church service. He was hit in the back of his head and his ribs. A week after this attack, many stores owned by Christians were vandalized, set on fire, and robbed.

[4] In 2001, the Applicant was attacked in a coffee shop because he refused to participate in a demonstration against Jewish authorities. In May, 2002, as he was walking down the street, the Applicant was attacked by a group of Muslims who “pulled his cross from his neck and started to beat him up.”

[5] The Applicant moved to Haifa in 2005 to escape further persecution. However, while at work in a Christian-owned store, the Applicant was robbed at knife-point. His assailants took all of the money from him and the shop. They also cursed and threatened the Applicant and told him that Christians were unwanted and should leave Israel. After the departure of the assailants, the Applicant phoned the police. While the police took some notes of the incident, the Applicant did not hear from them again.

[6] While in Haifa, the Applicant's car was damaged and his windows were broken. He also began receiving threatening phone calls at the start of 2006.

[7] The Applicant fled to Canada in May, 2006 and filed his refugee protection claim shortly thereafter.

[8] After his arrival in Canada, The Applicant learned that three of his cousins had been shot by their Muslim neighbours. One of his cousins died in this attack.

DECISION UNDER REVIEW

[9] The RPD determined that there was a lack of clear and convincing evidence of the unavailability of state protection.

[10] The RPD noted the alleged attacks that occurred on Easter Sunday, in the coffee shop, and while walking down the street. However, it also noted that "[t]he claimant testified that he could not remember if he reported those attacks to the police."

[11] The Applicant testified with regard to his reporting of the 2005 shop attack to the police. The police asked the Applicant if he could identify the intruders. He did not recognize them because they wore masks. The RPD noted that

[w]ithout adequate description or identification of the perpetrators, the police were not given enough information to perform their task. It

is reasonable to assume that the adequacy of the protection offered by the state was not tested, as the police did not have sufficient information to mount a successful investigation. This was the only instance where the claimant called the police for protection. Doubting the effectiveness of the protection offered by the state, when one has not really tested it, does not rebut the existence of a presumption of state protection in one's country of origin.

[12] Accordingly, the RPD found that the Applicant had not discharged his burden of establishing clear and convincing evidence of the state's inability to protect its citizens.

[13] The RPD then considered other options available to the Applicant. For instance, it noted the potential for filing a complaint of police inaction in response to reports of crimes, harassment or discrimination at the Public Complaints Unit. The RPD then canvassed the efforts made to improve the complaints process against police officers.

[14] The RPD also noted the existence of the Office of the Ombudsman which "examine[s] complaints against government offices, state institutions, local governments, and certain other bodies," many of which are launched by vulnerable people. Moreover, the Ombudsman is easily accessible and the service is free of charge.

[15] In contrast to the Applicant's submissions that Arab citizens of Israel are "treated as second class citizens" and experience persecution and discrimination, the RPD found that the police had responded to the Applicant's call, had taken notes, and had discharged their duty. However, the RPD noted that "they could only act on the information they were given." The Applicant did not

testify that the “indifference and discrimination” by police officers was due to his Arab Christian background.

[16] The RPD considered the Applicant’s evidence with regard to the police. It determined that even though the police remained “uninvolved in sectarian violence between...Muslims against their Christian Arab neighbors,” local failures to provide effective policing do not amount to a lack of state protection, unless they are part of a wider pattern of a state’s inability or refusal to protect.

[17] Further, the country condition documentation demonstrated that Israel is a parliamentary democracy in which “the government generally respects the human rights of its citizens.” The evidence also demonstrated that Israel allows freedom of worship which is also generally respected by the government. Based on an international Christian Zionist website, the RPD also noted that Christians also benefit from “legal protection from persecution.”

[18] The RPD pointed out that in February, 2003, no evidence existed that anyone was being imprisoned for their belief in Christianity. Moreover, in May, 2004, for the first time ever, a Christian Arab was elected as a Supreme Court judge. The RPD also cited documentary evidence that “by and large, Israel treats its 138,000-strong Christian minority tolerantly and equitably.”

[19] The RPD concluded that “where a state is in effective control of its territory, has military, police and civil authority in place and makes serious efforts to protect its citizens, the mere fact that the state’s efforts are not always successful will not rebut the presumption of state protection.”

Indeed, the Applicant had not provided convincing evidence to rebut the presumption of state protection.

[20] As a result, the RPD concluded that the Applicant is not a person in need of protection and that there is no risk to his life or risk of cruel or unusual treatment or punishment should he be returned to Israel.

ISSUES

[21] The Applicant submits the following issue in this application:

1. Did the RPD err in law in its analysis of state protection?

STATUTORY PROVISIONS

[22] The following provisions of the Act are applicable in these proceedings:

Convention refugee

96. A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

Définition de « réfugié »

96. A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

Person in need of protection

Personne à protéger

97. (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

97. (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

Person in need of protection

(2) A person in Canada who is a member of a class of persons prescribed by the regulations as being in need of protection is also a person in need of protection.

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

Personne à protéger

(2) A également qualité de personne à protéger la personne qui se trouve au Canada et fait partie d'une catégorie de personnes auxquelles est reconnu par règlement le besoin de protection.

STANDARD OF REVIEW

[23] The Supreme Court of Canada in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of review applicable to the particular question before the court is well-settled by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search

proves fruitless must the reviewing court undertake a consideration of the four factors comprising the standard of review analysis.

[24] Precedent case law has determined that the issue of state protection is to be considered on a standard of reasonableness. See *Song v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 467, [2008] F.C.J. No. 591 at paragraph 6.

[25] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with “the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law”: *Dunsmuir* at paragraph 47. Put another way, the Court should only intervene if the Decision was unreasonable in the sense that it falls outside the “range of possible, acceptable outcomes which are defensible in respect of the facts and law.”

ARGUMENTS

The Applicant

[26] The Applicant contends that the RPD erred in its determination of state protection in two respects: first, it misunderstood and misapplied the law with regards to state protection; and second, it selectively relied on documentary evidence and failed to consider relevant evidence.

[27] The Court has found that serious efforts made by a state must be considered at the operational level of the protection offered by the state. See *Garcia v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 79, 308 F.T.R. 54 2007 at paragraph 15. Further, although there is a presumption of state protection, this presumption can be rebutted by clear and convincing evidence of the state's inability to protect. This inability can be demonstrated by considering the experiences of similarly situated individuals who have been let down by state protection. See *Balogh v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 809, 221 F.T.R. 203 at paragraph 42. Furthermore, the ability of a state to protect "must be seen to comprehend not only the existence of an effective legislative and procedural framework but the capacity and the will to effectively implement that framework." See *Jabbour v. Canada (Minister of Citizenship and Immigration)*, 2009 FC 831, [2009] F.C.J. No. 961 at paragraph 29.

[28] In this instance, the RPD failed to understand that the presumption of state protection can be rebutted by clear and convincing evidence, and that the experiences of similarly situated people and the Applicant's own experiences may provide such evidence. For this reason, the RPD erred in failing to consider objective documentary evidence as it related to the Applicant's personal situation.

[29] The RPD also erred in relying on irrelevant evidence and by selectively citing portions of the documentary evidence to support its finding while ignoring evidence that pointed directly to the contrary. For example:

- a) The RPD cited an excerpt from a Response to Information Request in the documentation package entitled: “Israel: Reports of discrimination against immigrants from the former Soviet Union and response of government authorities and non-governmental organization” [emphasis in original]. Clearly this is in error since the Applicant is not an immigrant from the former Soviet Union but an Arab Christian born in Israel;
- b) The RPD also cited from a Response to Information Request that contained general information from the website of the Israel police, which discusses a pilot project that would involve “mediation between police officer and complainants” [emphasis in original]. It also states that an Israeli organization which provides information on human rights violations in the West Bank and Gaza Strip claimed that it was “instrumental in obtaining the first conviction in 5 years of a Border police officer for abusing Palestinians” [emphasis in original]. This cannot support a finding of state protection. Furthermore, there was specific documentary evidence before the RPD with regard to the availability of state protection for Arabs and Arab Christians in Israel that was ignored by the RPD;
- c) The RPD also selectively quoted from a Response to Information Request entitled “State Protection Available to Christians.” The RPD found that “in 2001, for every Jew to visit Israel there were two Christians” and that this was an indication that “by and large, Israel treats its 138,000-strong Christian minority tolerantly and equitably.” The Applicant submits that the fact that Christians from all over the world visit holy sites in Jerusalem and other cities in Israel is not evidence that Israel treats its Christian minority “tolerably and

equitably.” This same Response to Information Request discussed the treatment of Christian Arabs in Israel and the lack of police protection for them; however, this evidence was ignored by the RPD. Indeed, the evidence indicated that the “police have remained for the most part uninvolved” with regard to sectarian violence. Further, despite vandalism and shootings directed at Christian homes, “the police have not interfered and have made no arrests.” A villager of Rama, Galilee was also cited in the documentary evidence as saying “authorities are not interested in policing Arab communities.”

[30] The RPD was required to consider the attitude of the police towards Arab citizens as well as the effectiveness of the police response with regard to the acts of violence committed by Muslim extremists against Christian Arabs.

[31] The RPD further erred in its consideration of the police’s reaction to the Applicant’s reporting of the May, 2005 attack. The police are required to follow up and investigate complaints brought to them. The evidence before the RPD was that, despite the Applicant’s complaint, the police did nothing with regard to his attack. The RPD determined that the police would be unable to investigate because the Applicant did not provide them with the identity of his attackers. The Applicant submits that such reasoning is absurd, since it would mean that as long as a criminal wears a mask to hide his identity, no criminal act will ever be investigated, solved and prosecuted. Furthermore, contrary to the RPD’s findings, the Applicant testified that the police would be unwilling to protect him because the police were Jews and there existed “racist troubles between the

Jews and Arabs,” and that “even the right extremist government that’s ruling Israel [is] calling for dislocation of all Arabs from Israel or transfer of all Arabs from Israel.”

[32] The RPD clearly erred by ignoring the evidence before it. While the RPD considered that Israel is a democracy, has an independent judiciary and allows for freedom of worship, this does not mean that Arab Israelis are treated similarly to the Jewish citizens of Israel. The evidence before the RPD showed that Arab Israelis are treated as second class citizens. This is clear in the institutional, legal and societal discrimination that occurs against Arab Israelis. Furthermore, the police discriminate towards Arab Israelis, and their behaviour is based on an approach that views the Arab citizens as an enemy and as a security threat to the state.

[33] The Applicant cites many pieces of documentary evidence that were overlooked or ignored by the RPD. For instance, the 2007 annual report by the Association for Civil Rights in Israel, which reports an overwhelming amount of racism, restriction of personal freedoms and discrimination, especially against Israeli Arabs in Israel. The same documentary evidence shows that racism and incidents against Israeli Arabs had dramatically increased from the previous year.

[34] Other documentary evidence noted that a majority of Jewish Israelis supported the transfer of Arab citizens, and believed that “the State of Israel should encourage Arab citizens to leave the country.” The same evidence found that in 2006 racism against Arab Israelis was exacerbated, which resulted in “racism on the part of Jewish Members of Knesset and ministers; racism on the part of police; racism in official and semi-official bodies; and racism in the provision of services.”

Indeed, the evidence noted that “[m]ost Arab citizens have almost no doubt that the senior officers and divisions of Israeli Police adopt a discriminatory attitude toward them,” and that “the behaviour of the police is not based on an egalitarian approach to all citizens, but rather on an approach that views the Arab citizens as an enemy and as a security threat to the state.” Furthermore, the documentary evidence before the RPD showed that “not only has no improvement been seen in the attitude of the police toward the Arab minority, but this attitude has actually become more racist, more hostile, more aggressive, and more violent.”

[35] The Applicant cites and relies on many pieces of documentary evidence that were before the RPD to demonstrate that the support given to Arab Israelis is minimal at best, and violent and aggressive at worst. This evidence clearly contradicts the RPD’s finding that the police failed to take action when the Applicant phoned for help because he was unable to provide sufficient information with respect to the attack. Rather, the evidence supports a finding that the police’s inaction was due to the Applicant’s identity as an Arab. The RPD failed to have regard for the evidence before it. As such, its Decision cannot be upheld as reasonable. See, for example, *Gonsalves v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 844, 73 Imm. L.R. (3d) 311; *Rosales v. Canada (Minister of Employment and Immigration)*, 72 F.T.R. 1, [1993] F.C.J. No. 1454; *Horvath v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 398, 14 Imm. L.R. (3d) 263.

[36] Other evidence before the RPD clearly contradicted its finding of state protection for the Applicant in Israel including: the ingrained discrimination; the treatment of Arab Israelis as second class citizens; the racist and aggressive attitude of the police towards Arab Israelis; and the lack of

police interference in acts of violence against Christians. The RPD erred in failing to consider this evidence fully and failing to determine whether the discrimination faced by Arab Christians affects the protection afforded to them by the police. See *Jabbour* at paragraphs 29-30, 41-43.

[37] The Applicant submits that this evidence demonstrates more than a local failure to provide effective policing. Indeed, the evidence clearly shows a broader pattern of the state's refusal to provide protection to Arab citizens, including Christian Arabs.

[38] The documentary evidence before the RPD also referred to many similarly situated persons who have been let down by state protection in Israel. Although this evidence was highly relevant, it was ignored by the RPD. The RPD is not allowed to selectively rely on evidence presented to the detriment of the Applicant, or ignore pertinent evidence supporting his claim. See, for example, *Jabbour*; *Garcia v. Canada (Solicitor General)*, 1993 F.C.J. No. 952; *Naqvi v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 996, 2005 F.C.J. No. 1242.

The Respondent

[39] It is the Applicant's onus to establish all aspects of his refugee claim. In this case, the Applicant failed to rebut the presumption of state protection.

[40] When the Decision is read as a whole, it is clear that the RPD understood the facts of the Applicant's claim and found his evidence insufficient to support a positive determination. See

Ragupathy v. Canada (Minister of Citizenship and Immigration), 2006 FCA 151, [2007] 1 F.C.R. 490 at paragraph 15; *Mughal v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 1557, [2006] F.C.J. No. 1952 at paragraph 31.

[41] The Applicant must approach his home state for protection prior to seeking refugee status elsewhere. See, for example, *Carillo v. Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94, [2008] 4 F.C.R. 636 at paragraph 25. The Applicant must also demonstrate that he is willing but unable to receive protection from his country of nationality.

[42] The presumption of state protection applies equally where an applicant alleges a fear of persecution by either the state or a non-state entity. See *Hinzman v. Canada (Minister of Citizenship and Immigration)*, 2007 FCA 171, 282 D.L.R. (4th) 413 at paragraph 54. The Respondent contends that the Applicant must do more than simply show that the Israeli government “has not always been effective at protecting those who fear honour killings” in order to rebut the presumption of state protection.

[43] Where an applicant is unwilling to approach the state, he/she will not be considered a refugee or protected person where it was “objectively reasonable” for the applicant to have sought state protection and where state protection “might reasonably have been forthcoming.” See *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689 103 D.L.R. (4th) 1.

[44] The more democratic a state, the higher the Applicant's burden to show that state protection was sought. See *Kadenko v. Canada (Minister of Citizenship and Immigration)*(1996), 143 D.L.R (4th) 532, 206 N.R. 272; and *Hinzman*, above at paragraphs 56-57. Because Israel is a democratic state, the Applicant must do more than show that he approached the police on one occasion and that their efforts were unsuccessful. See, for example, *Carrillo*, above at paragraphs 31-36.

[45] Furthermore, state protection may be available from sources other than the police, such as state-run or state-funded agencies. See, for example, *Pal v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 698, [2003] F.C.J. No. 894; *Nagy v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 281, [2002] F.C.J. No. 370.

[46] It is the Applicant's onus to rebut the presumption of state protection. It is not for the RPD to establish the adequacy or effectiveness of protection. To do so would be to shift the burden of proof. See *Samuel v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 762, [2008] F.C.J. No. 963 paragraph 10.

[47] Although the Applicant's burden of proof to show inadequate state protection is on a balance of probabilities, this burden is also coloured by the fact that Israel is a democratic state. See *Carillo*, above at paragraph 26. Such evidence must be clear, convincing, relevant and reliable. See *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689. The Applicant failed to provide clear and convincing evidence that demonstrates, on a balance of probabilities, that the Israeli state is incapable of offering him protection.

[48] In order to rebut the presumption of state protection in a democratic state, the Applicant must demonstrate that he exhausted all possible protection available. An applicant will only be exempted from this obligation to seek state protection in exceptional circumstances. See *Hinzman*, above at paragraph 57. In this instance, the Applicant did not make adequate attempts to seek state protection prior to seeking refugee protection. Multiple attacks and threats were never reported to the authorities and the Applicant proved unwilling to avail himself of state protection. The Applicant also failed to follow up on what he believed was the inaction of the police.

[49] Furthermore, the RPD is entitled to prefer documentary evidence to the testimony of the Applicant as long as it provides adequate reasons for doing so. In this case, the RPD found that rebutting the presumption of state protection would require more than an assertion of subjective reluctance to seek protection. Even where the RPD accepts the Applicant's testimony, it is entitled to place more weight on documentary evidence. See *Szucs v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 1614 at paragraph 11.

[50] The RPD examined the evidence before it, and while it recognized that the system was imperfect, it found that the resulting discrimination did not rise to the level of persecution. The simple fact that the Applicant would have preferred a different result is not reason enough for the Court to intervene. See, for example, *Krishnan v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 846, 63 Imm. L.R. (3d) 38 at paragraph 31.

[51] The RPD is not required to mention every piece of evidence in its Decision, so long as it is clear that the RPD has considered the evidence as a whole. The Respondent contends that simply because there have been honour killings in Israel does not negate the availability of state protection to someone who is a Christian Arab in Israel.

[52] The fact that religious tensions run high in Israel is not evidence that state protection is unavailable to citizens of Israel. Furthermore, the fact that murders have occurred in the past does not prove the unavailability of state protection. Rather, the Respondent contends, the fact that the state investigates and prosecutes these matters demonstrates the availability of state protection.

ANALYSIS

[53] The Applicant's position on state protection is that because of systemic state discrimination towards Arabs and Christians, adequate police protection was not available to him in Israel. A significant amount of evidence was introduced on this point. Counsel for the Respondent spent a great deal of time at the hearing of this application addressing what she regarded as deficiencies in that evidence which might render it irrelevant and/or of little weight.

[54] What we do not have, however, is the PRD's assessment of that evidence. In reviewing this Decision the Court is concerned with the Decision itself and the reasons, or lack thereof, contained in the Decision. Counsel's views of the evidence do not really assist the Court in this regard.

[55] After reviewing the Decision and the record, I have to conclude that the RPD's state protection analysis contains reviewable errors. Generally speaking, the Board failed to review the evidence of inadequate state protection at an operational level and it failed to consider the evidence about persons similarly situated to the Applicant who have been let down by the state. As in *Balogh*, the RPD in this case did not test the presumption of state protection against the evidence led by the Applicant. In fact, the RPD appears to have relied upon facts and conclusions selected from the evidence that, in my view, do not particularly support its general findings. See *Jabbour* at paragraphs 29, 30, 41-43.

[56] The evidentiary record before the RPD has been accurately summarized by the Applicant in his Memorandum of Argument. Without mentioning every point in turn, I think the general conclusion is justified that the evidence demonstrated that there were not only local failures to provide adequate policing, but also a broad pattern in Israel of the state's refusal to provide adequate protection to its Arab citizens, including Christian Arabs such as the Applicant. This evidence should have been addressed by the RPD. See *Cepeda-Gutierrez v. Canada (Minister of Citizenship and Immigration)*, 157 F.T.R. 35, [1998] F.C.J. No. 1425 at paragraph 17.

[57] The RPD also ignored the evidence of similarly situated persons who have been let down by the state protection arrangements in Israel.

[58] Generally speaking, I agree with the criticisms of the decision put forward by the Applicant in his Memorandum of Argument and adopt them in concluding that this Decision is unreasonable and must be returned for reconsideration.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that

1. The application is allowed. The Decision is set aside and the matter is returned for reconsideration by a differently constituted RPD.
2. There is no question for certification.

“James Russell”

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-3846-09

STYLE OF CAUSE: LEVIS ZAATREH

- and -

MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: FEBRUARY 16, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT:** HON. MR. JUSTICE RUSSELL

DATED: FEBRUARY 23, 2010

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