

Federal Court



Cour fédérale

Date: 20100922

Docket: IMM-813-10

Citation: 2010 FC 946

Toronto, Ontario, September 22, 2010

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

NADITSA YASMIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review, pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 of a decision of a Pre-Removal Risk Assessment (PRRA) Officer's decision denying the applicant's PRRA application. The applicant submits that the Officer erred in excluding and in failing to properly consider the evidence submitted on the basis that it was not new evidence as required by section 113(a) of the Act.

[2] For the reasons that follow, I find that the Officer made no error and that the decision reached was not unreasonable. Accordingly, this application must be dismissed.

[3] The applicant points to the Officer's decision and to the numerous boxes on the form under the heading "New Evidence" and notes that each question is answered in the negative, indicating that the Officer found that there was no new evidence within the meaning of section 113(a) of the Act. That she submits was in error.

[4] Despite the submissions of applicant's counsel I agree with the respondent that the applicant's submission focuses on form over substance. In the written decision, the Officer notwithstanding having indicated that there was no new evidence refers to and considers all of the evidence the applicant submitted with the application. The Officer writes:

Indeed, I have read and considered the above articles [i.e. the alleged new evidence]. I acknowledge that conditions for women are far from ideal in Pakistan. In addition, I note that tribal killings are prevalent and women have been killed in such disputes. Still, I am not satisfied that there is sufficient evidence to show that the applicant would face a personalized risk of being targeted by state agents or clan groups. In this respect I note that there is little if any evidence to show that the aforementioned groups have made attempts to harm the applicant's mother or sought the applicant's whereabouts since the applicant's refugee decision. I do note that I have read about how the applicant's mother has now applied for refugee status in Canada; however I note that there are little if any details provided about the events that lead her to seek refugee status. Indeed, I note that in counsel's submissions, it is noted that the agents of alleged persecution regularly harm female family members and this is shown by the documentary evidence. Still, for the same reasons above, I find that there is a lack of corroborative evidence to demonstrate a personalized risk based on the applicant's specific profile.

[5] It is clear on a reading of the decision of the Officer that although the boxes on the form were checked indicating that there was no new evidence, the Officer then considered all of the “new evidence” tendered by the applicant and found that it failed to establish on the balance of probabilities that the applicant faced a personalized risk.

[6] In my view, that decision was reasonably open to the Officer. The only evidence of personalized risk was that some female family members were targeted in reprisal situations and that the applicant was a female family member of a man who was the target of such a reprisal. Contrary to that was the evidence of the applicant’s father that those who persecuted him did not target women, the fact that the applicant’s mother returned frequently to Pakistan (apparently without incident), and the lack of evidence that the applicant had personally been targeted in the past (as the car incident was, at best, ambiguous evidence in that it may have been evidence of the applicant being targeted or it may simply have had no relationship to the reprisal against her father).

[7] The onus was on the applicant to show personalized risk and I do not accept the submission of the applicant that the Officer’s decision in this regard was unreasonable.

[8] Neither party proposed a question for certification; there is none.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application is dismissed; and
2. No question is certified.

“Russel W. Zinn”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-813-10

STYLE OF CAUSE: NADITSA YASMIN v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 21, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** ZINN J.

DATED: SEPTEMBER 22, 2010

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