

Federal Court



Cour fédérale

**Date: 20130307**

**Docket: IMM-3245-12**

**Citation: 2013 FC 239**

**Ottawa, Ontario, March 7, 2013**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**MOHSEN HAJMORADI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] Mohsen Hajmoradi [the Applicant] has applied for judicial review of a decision of a Pre-Removal Risk Assessment Officer [the Officer] dated March 6, 2012, wherein the Applicant's application for a Pre-Removal Risk Assessment [PRRA] was denied [the Decision]. The application for judicial review is made pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act].

### **The Refugee Claim**

[2] The Applicant, who is a citizen of Iran, initially claimed that he was pursued by Iranian authorities because of his participation in the demonstrations which took place following Iran's presidential election in June 2009. This allegation of persecution based on political grounds was addressed by the Refugee Protection Division of the Immigration and Refugee Board [the Refugee Board]. It refused the Applicant's claim on June 28, 2011. The Refugee Board found that the Applicant lacked credibility and concluded that he did not participate in anti-government demonstrations and that he was not being pursued by Iranian authorities. The Applicant's request for leave and judicial review of that decision was dismissed.

### **The PRRA Application**

[3] The Applicant's PRRA Application [the Application] offered new evidence including a copy of a Judgment of the Chief of Iran's Special Revolutionary Court, dated July 27, 2011 [the Confiscation Judgment]. It stated that the authorities were confiscating the Applicant's home in Tehran and giving the proceeds to a charitable organization because the Applicant had participated in uprisings and demonstrations against the Islamic Republic and had cooperated with anti-government groups.

[4] The new evidence also included a copy of a letter from the Applicant's sister, dated November 16, 2011. She described events which had taken place in the summer of 2009, including raids on the Applicant's home by the authorities, and her own arrest and detention. She also addressed the circumstances surrounding her receipt of the Confiscation Judgment and the subsequent confiscation of the Applicant's home.

[5] In addition to claiming persecution on political grounds, the PRRA Application also alleged a new risk by reason of the Applicant's formal conversion to Christianity as a result of his baptism in November 2011. This event post-dated his hearing before the Refugee Board.

### **The PRRA Decision**

[6] The Officer addressed the allegations of risk on both political and religious grounds. With respect to the former, the Officer found that the fears presented in the PRRA Application were essentially those which had been considered and rejected by the Refugee Board. Turning to the new evidence, the Officer noted that the Applicant had not provided the original of the Confiscation Judgment, but rather a facsimile copy which contained no original security features. The Officer found it problematic that the Applicant had not offered any information about why the original was not available. In the absence of an explanation, the Confiscation Judgment was given no weight.

[7] In reviewing the letter from the Applicant's sister, the Officer accurately stated that the information pertaining to events of 2009 did not constitute new evidence. However, the Officer did recognize the sister's references to the Confiscation Judgment and the subsequent confiscation of the Applicant's house as new evidence. Nevertheless, the letter was given no weight principally because the Applicant did not submit the original and did not explain its absence.

[8] Turning to the Applicant's allegation of risk arising from his baptism, the Officer noted that although not yet baptized, the Applicant had been attending church regularly for 18 months before his hearing before the Refugee Board. The Officer found that the Applicant had failed to provide a

reasonable explanation for his failure to raise this risk before the Refugee Board and therefore concluded that the baptism did not represent a new risk.

### **The Issues and Discussion**

[9] The Applicant has identified the Officer's treatment of the baptism as the most serious error. The Applicant argues that the Officer failed to appreciate its significance. The materials submitted to the Officer indicated that the Applicant feared for his life and safety on the account of his religious *conversion*. The country documentation submitted with the Application detailed the risk to those who renounce Islam by converting to Christianity. Counsel for the Applicant emphasized that baptism is the act of conversion which exposes the Applicant to a heightened risk and that the Officer erred in so far as he failed to recognize that it was the baptism and not attendance at Christian services that created the new risk.

[10] The Respondent argues that the Applicant's formal conversion by way of baptism made little difference to the risk he would have faced in Iran once he was perceived to be a practicing Christian. I agree. In my view, although his baptism may have heightened his risk, the risk of persecution on religious grounds arose when the Applicant began attending Christian services. Since this occurred well before his refugee hearing and since the Applicant did not explain why he did not raise this fear before the Board, he is precluded from relying on his baptism as evidence of a new risk.

[11] The Applicant also challenges the Officer's failure to give any weight to the new evidence related to the risk arising out of his participation in anti-government demonstrations. The Applicant

argues that since the Officer rejected the new evidence because he did not find it credible, he was required to at least consider whether or not to exercise his discretion in favour of holding a hearing pursuant to s. 113(b) of the Act and s. 167 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[12] On the other hand, the Respondent submits that the Officer's treatment of the evidence does not amount a negative credibility finding. Rather, the Respondent argues, the Officer found that the copied documents submitted by the Applicant without explanation were insufficient proof of their contents.

[13] I agree with the Respondent and conclude that the Officer did not make a negative credibility finding. In my view, the Officer was simply unable to reach a decision about the probative value of the new evidence.

[14] For these reasons, the application for Judicial Review will be dismissed.

[15] Neither party posed a question for certification under s. 74 of the Act.

**ORDER**

**THIS COURT ORDERS that:**

The application for judicial review of the Decision is dismissed.

“Sandra J. Simpson”  
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Judge

Federal Court



Cour fédérale

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-3245-12

**STYLE OF CAUSE:** Mohsen Hajmoradi v MCI

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** December 13, 2012

**REASONS FOR ORDER:** SIMPSON J.

**DATED:** March 7, 2013

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