

Federal Court



Cour fédérale

**Date: 20130307**

**Docket: IMM-7026-12**

**Citation: 2013 FC 236**

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

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**ERADNABUPADHI SARAWANAMUTTU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The applicant is a 74-year old citizen of Sri Lanka of Tamil ethnicity. She arrived in Niagara Falls, Ontario, after nine days of travel through three intermediary countries on September 23, 2009, and made an inland refugee claim five days later in Toronto. The Refugee Protection Division of the Immigration and Refugee Board rendered its decision orally at the conclusion of her refugee hearing.

[2] The Board made negative credibility findings and determined that the applicant did not have a well-founded fear of persecution at the hands of the Liberation Tigers of Tamil Eelam (LTTE), the police, or the army by reason of her membership in a particular social group.

[3] Although the decision is not a model of clarity, perhaps because it was rendered orally, I do not find the Board's findings regarding credibility or lack of forward-looking risk to be unreasonable.

### **Credibility**

[4] The main and determinative issue was the applicant's credibility in relation to her allegation that her 19-year old grandson had disappeared and she fled soon afterwards when the army came to her, questioned her about her grandson's disappearance, and threatened her. Among other things, the Board found the applicant's testimony to be vague.

[5] The applicant argues that the Board's comment about the "vagueness" of her testimony is unintelligible. While I agree that the Board's comment in that respect raises a question, upon review of the decision as a whole, I am of the view that in using that word, the Board meant that her evidence lacked detail. Her evidence was very general and lacked supporting objective documentary support.

[6] The applicant never explained why the army suddenly appeared at her house to ask where her grandson was. How did they know that her grandson was missing when she had not reported that to anyone? When asked why she did not report her grandson's disappearance, she stated

that her grandson “never ran away.” That answer would have supported the opposite response from his grandmother. If he never ran away, there would have been more, not less urgency in finding him. If the applicant did have a valid reason not to report the disappearance to the authorities, such as “the police or army don’t take complaints from us Tamils seriously,” which would explain her inaction, she never said so.

[7] On the other hand, she testified that the army specifically told her to tell them if the LTTE ever contacted her again. The Board was of the view that, in a place where disappearances at the hands of the LTTE are a known issue, as a concerned grandmother, she would have engaged the authorities in some capacity and not merely “hope[d]” that her grandson would return. In my view, that was an intelligible, reasonable conclusion. Lastly, if the Board’s finding in relation to the alleged disappearance is reasonable, it follows the applicant’s testimony about if or how the army subsequently dealt with her was fabricated or at least, as the Board seems to suggest, embellished.

[8] Accordingly, in my view, the Board’s finding that the applicant did not face a risk of persecution at the hands of the army arising from the disappearance of her grandson is reasonable.

### **Forward-Looking Risk**

[9] The applicant also submits that she has a well-founded fear of persecution because rejected Tamil asylum seekers returning from abroad are subjected to harsh treatment by the authorities upon their return to Sri Lanka, and that the Board erred in its treatment of the

evidence by selecting only portions of the documentary evidence and failing to mention or distinguish those passages that supported the applicant's view.

[10] In my view, a fair reading of the Response to Information Request LKA103815.E, the relevant document, is that Sri Lankan authorities screen returnees for criminals and 'terrorists,' and subject Tamils with links or perceived links to the LTTE to more scrutiny upon return, in some cases in an abusive manner. The High Commission evidence stated that criminality is, to its knowledge, all that has triggered detention.

[11] As mentioned above, the Board found the applicant's testimony in relation to possible perceived links to the LTTE as a result of her grandson's alleged disappearance not credible. As a result, the portions of the documentary evidence stating that those with links to the LTTE face greater scrutiny upon return to Sri Lanka have no bearing on the risk facing the applicant. Absent that connection, the Board's reasoning that a 74-year old woman with no alleged criminal record would not face persecution by the authorities upon her return is reasonable, based on the documentary evidence.

[12] The burden is on the applicant to point to documentary evidence before the Board that has a more direct bearing on the issue of age and gender, and that shows that there is more than a mere possibility that a 74-year old Tamil woman with no criminal record and no links to the LTTE would be detained or mistreated at the airport or at another checkpoint in a manner amounting to persecution. I simply do not see that evidence. Without more, I am not persuaded

that the Board's conclusion was outside the range of possible, acceptable outcomes: the applicant did not fit a high-risk profile, based on the documentary evidence.

[13] This application must be dismissed. No question was proposed for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application is dismissed and no question is certified.

"Russel W. Zinn"

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Judge

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

**DOCKET:** IMM-7026-12

**STYLE OF CAUSE:** ERADNABUPADHI SARAWANAMUTTU v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** February 27, 2013

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

**DATED:** March 7, 2013

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