Federal Court  Cour fédérale

Date: 20130617

Docket: IMM-4228-12

Citation: 2013 FC 664

Ottawa, Ontario, June 17, 2013

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

OZAN SAHIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant, Ozan Sahin, seeks judicial review pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] of the April 3, 2012 decision of the Refugee Protection Division of the Immigration and Refugee Board [the Board] which found that he was not a Convention Refugee pursuant to section 96 of *IRPA*, nor a person in need of protection pursuant to section 97 of the Act.

[2] Mr Sahin is a citizen of Turkey who arrived in Canada in November 2010, after spending over two years in the United States of America [USA], and sought refugee protection based on claims of abuse and mistreatment he had suffered in Turkey due to his participation in Alevi-Kurdish activism. Mr Sahin claims he was detained, beaten and tortured in 2006, 2007, and 2008. He also claims to be a conscientious objector to military service in Turkey.

[3] In 2008, Mr Sahin left Turkey on a five year student Visa to study in Pittsburgh, Pennsylvania, USA. In 2008 he was charged in Pittsburgh with several criminal charges. He pleaded guilty to one and was convicted of disorderly conduct, sentenced to 90 days probation and fined $300.

[4] Mr Sahin remained in the USA until November 2010 then travelled to Vancouver and shortly thereafter to Toronto where he claimed refugee status on November 15, 2010.

The Board's decision

[5] The Board found that there was no reasonable chance or serious possibility that the applicant would be persecuted on a Convention ground if he returned to Turkey or that he would face a risk to his life or be subjected to cruel and unusual punishment.

[6] The determinative issue for the Board was the applicant's credibility and his failure to provide independent corroborating evidence to support his claim.

[7] The Board acknowledged that Mr Sahin had participated in Alevi- Kurdish activism but that he did not have a profile that would attract attention for such activities.

[8] The Board made several credibility findings, reviewed the documentary evidence submitted by Mr Sahin and provided reasons for finding that the specific documents were of little weight and/ or failed to establish that he would face a risk if returned to Turkey.

[9] In addition, the Board determined that the applicant was not a conscientious objector. The Board found that the letter from the Ministry of Defence provided after the hearing, along with the applicant's oral testimony, did not establish that he was a conscientious objector to military service as his service had been deferred to a specific date and he indicated that he would fight on certain conditions. The Board also noted that if he were a conscientious objector, the consequences he would face are addressed by the Turkish law of general application and would not constitute a risk to him pursuant to section 96 or 97.

[10] The Board also found that the applicant's fear of persecution was not well founded or credible due to his failure to seek asylum in the United States for the two and a half years he remained there. The Board did not believe the applicant's explanation that his lawyer advised him not to seek protection due to his criminal conviction.

[11] I agree with the applicant and respondent that the Board's decision is somewhat difficult to follow given that the Board revisited its initial decision to refuse to consider additional documents which the applicant sought to submit after the hearing. The Board referred to the lack of the

corroborating documents to support the claim and then specifically considered all the documents submitted. I find that when the decision is read as a whole, it is clear that the Board agreed to receive the documents provided shortly after the hearing. The Board considered the documents, but attributed little weight to them.

[12] The additional documents provided after the hearing included a letter from the Social Democratic Party [SDP], the letter from the Minister of National Defence regarding military service, and a letter from the Alevi Cultural Association.

The Issues

[13] The applicant submits that the Board's decision was not reasonable with respect to the applicant's credibility. The applicant submits that he provided independent corroborating evidence through the affidavit of his cousin, the letter from his Canadian doctor, the letters from the Pir Sultan organisation and the Alevi Cultural Association, the letter from the Social Democratic Party [SDP] and the letter from the Ministry of National Defence regarding his military service. The applicant submits that the Board erred in not making a clear finding regarding the credibility or authenticity of the letter regarding his military service which the Board accepted after the hearing.

[14] The applicant further submits that the Board erred in finding that he did not have a subjective fear of persecution in Turkey due to his delay in seeking protection. The applicant notes that he had a five year Visa and he had planned to remain in the US to study. The Board unreasonably rejected the applicant's explanation that he relied on the advice of his US lawyer in not seeking asylum in the US.

[15] The applicant further submits that the Board erred in finding that he was not a conscientious objector. The applicant's status as a conscientious objector would put him at risk and, even if this did not amount to persecution, it was relevant to the section 97 analysis. The applicant submits that the Board erred in failing to conduct a separate section 97 analysis.

[16] Finally, the applicant submits that the interpretation at the hearing was not accurate and that this amounts to a breach of procedural fairness.

[17] The respondent's position is that the Board's decision read as a whole is reasonable. The Board considered each document submitted to support the applicant's claim and reasonably attributed little weight to them and did not find these documents to be sufficiently credible to corroborate the claim. The respondent also submits that the Board reasonably found that the applicant did not have a subjective risk of persecution on a Convention ground pursuant to section 96 nor did he face a risk pursuant to section 97.

Standard of review

[18] The appropriate standard of review applicable to credibility assessments is that of reasonableness: *Saleem v Canada (Minister of Citizenship and Immigration)*, 2008 FC 389 at para 13; *Malveda v Canada (Minister of Citizenship and Immigration)*, 2008 FC 447 at paras 17-20; *Lin v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1052 at para 13 [*Lin*] at para 13-14. Given that the Board's analysis of credibility is central to its role as trier of fact, its findings should

be given significant deference: *Lin* at para 13; *Fatih v Canada (Minister of Citizenship and Immigration)*, 2012 FC 857 at para 65.

[19] It is trite law that the role of the court in judicial review where the standard of reasonableness applies is not to substitute any decision it would have made but to "determine if the outcome falls within 'a range of possible, acceptable outcomes which are defensible in respect of the facts and law': (*Dunsmuir*, at para 47). There might be more than one reasonable outcome. However, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome": *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59.

[20] A breach of procedural fairness and other issues raising questions of law are reviewable on the standard of correctness: *Canada (Minister of Citizenship and Immigration) v Abou-Zahra*, 2010 FC 1073, [2010] FCJ no 1326 at para 16; *Chowdhury v Canada (Minister of Citizenship and Immigration)*, 2009 FC 709, [2009] FCJ no 875 at para 29; *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12, 2009 CarswellNat 434 at para 43; *Dunsmuir*, supra at para 79.

Preliminary Issue - interpretation errors

[21] The applicant submits that there were errors in the interpretation of Turkish and English at the oral hearing. This assertion was made after leave was granted and by way of an affidavit of another interpreter, who was not cross examined and who did not appear to have a copy of the transcript of the hearing.

[22] In oral submissions, counsel for the applicant agreed that some of the passages claimed to be inaccurate were not inaccurate. With respect to other passages referred to, I find that there were no significant errors. The wording questioned related to nuances in the language and did not affect the meaning of the terms.

[23] In addition, as noted by the respondent, any issues with respect to inaccurate interpretation should have been raised at the first opportunity (*Benitez v Canada (Minister of Citizenship and Immigration)*, 2006 FC 461 at para 235).

[24] In *Dhaliwal v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1097 at para 15, Justice de Montigny noted:

> … It is well established that complaints about the quality of interpretation must be made at the earliest opportunity (*Mohammadian v Canada (MCI)*, [2000] 3 FC 371 at para 27, [2000] FCJ no 309 (QL) [*Mohammadian*]). Failure to do so results in a waiver of the right to object to the interpretation on judicial review (*Bal v Canada (MCI)*, 2008 FC 1178 at para 31, [2008] FCJ no 1460 (QL)).

[25] In *Francis v Canada (Minister of Citizenship and Immigration)*, 2012 FC 636, Justice Snider addressed the same issue where an applicant claimed that his story was not understood due to poor translation and that this was a breach of procedural fairness. Justice Snider noted:

> [5] It is well established that a claimant for refugee protection in Canada has the right to "continuous, precise, competent, impartial and contemporaneous" interpretation during the course of the refugee hearing before the Board (*Mohammadian v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 191, [2001] 4 FC 85). This is a right that arises pursuant to s. 14 of the *Canadian Charter of*

> *Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*].
>
> [6] Translation cannot be expected to be perfect. Simply asserting that the translation was inadequate may not be sufficient grounds on which to overturn a decision. An applicant must raise the issue at the earliest opportunity or risk a conclusion that the right to procedural fairness was not breached. Moreover, it is not enough to show that there were errors: there will always be errors. A translation mistake will translate into a procedural fairness error where an incorrect translation results in a decision or determinative finding that might have been different had the words been correctly translated. In *Khatun v Canada (Minister of Citizenship and Immigration)*, 2012 FC 159 at para 51, [2012] FCJ No 169, a case where the Court concluded that the applicant's right to a fair hearing had been breached by the poor quality of translation, Justice Russell described the situation as follows:
>
> > The errors in interpretation went to the very essence of the RPD's rejection of the Applicant's claim. The RPD relied, at least in part, on the translation errors to support its conclusion that she was not credible. As the main reason the RPD rejected her claim was its finding that she was not credible, her right to procedural fairness was breached, so the Decision must be reconsidered.

[26] In the present case the applicant did not raise his concerns about translation at the first opportunity, and more importantly, the passages or words noted to be inaccurate were not significant and did not result in any misunderstanding on the part of the Board.

Credibility and lack of independent corroborating evidence to overcome adverse credibility findings

[27] The Board found that the applicant was generally not credible and, to overcome that negative credibility finding, sought independent corroborating evidence from the applicant. The Board's findings regarding the applicant's credibility are owed a significant degree of deference.

[28] The Board found that the applicant is not an individual who had a profile such that he would be targeted for persecution simply because of his involvement in Alevi-Kurd activities. The Board found that the evidence the applicant submitted did not constitute independent corroborating evidence. The Board clearly indicated that it attributed little weight to these documents and the findings of the Board are reasonable.

[29] The Board reasonably rejected the affidavit of the applicant's cousin because the information was outdated and second hand. The cousin had left Turkey in 1995 and his affidavit was based on information relayed by the applicant's mother. The Board concluded that the affidavit did not support the applicant's claims about his political activities or the problems he faced in Turkey.

[30] The Board considered the letter provided by the applicant's Canadian doctor which described scars the doctor observed and noted that these were consistent with injuries the applicant had described to his doctor. The Board reasonably attributed little weight to the letter because the doctor examined the applicant years after the alleged incident and could not establish how, when or by whom the scars were inflicted.

[31] The Board found that the document from the Alevi Association was merely a membership application and reasonably concluded that it did not establish that he was a member or that, if he were a member, he would be at risk.

[32] Similarly, the letter from the Pir Sultan Abdal Cultural Association was found to only acknowledge and thank the applicant for his support to their youth branch and did not describe any activities or indicate any risk the applicant faced due to his participation.

[33] The Board noted that the letter from the Ministry of Defence, which was provided after the hearing, was not an original. While the applicant submits that the Board did not make a clear finding about the document, I do not agree. The Board clearly stated that it gave the document low weight and that the provision of the document did not change the Board's earlier finding with respect to the applicant's claim that he was a conscientious objector.

[34] The Board found that the letter from the Social Democratic Party [SDP] provided after the hearing, which indicated that the applicant had been a member and had participated in cultural and democratic activities, contained little information to suggest that the applicant's life was at risk or would be at risk due to his activities in Turkey. The Board found that the letter did not alleviate its concerns about the well-foundedness of the applicant's claim of persecution, particularly since the applicant had spent two and a half years in the US without seeking protection.

[35] The Board's conclusions about the SDP letter are reasonable. The Board noted earlier in its reasons (and before it had decided to accept the post hearing documents) that it did not believe the applicant's story that the SDP could not provide the letter and could not set out the problems faced by the applicant in Turkey due to the SDP's fear of the letter being intercepted and resulting in problems for the SDP. The letter was in fact provided and it did mention that Mr Sahin had been

detained by the police. However, the letter did not provide any details for the Board to rely on and the Board's finding that the letter was of little weight was reasonable.

[36] The Board canvassed all of the documents submitted and reasonably concluded that there was no credible evidence to support the applicant's claim that he would face persecution if returned to Turkey.

Lack of subjective fear

[37] The applicant submits that the Board erred in finding that the applicant did not have a subjective fear of persecution because he did not seek asylum in the United States during his two and a half year stay.

[38] The Board clearly stated that it disbelieved the applicant's explanation that he relied on the advice of his US lawyer in not seeking asylum in the US. The Board reasonably concluded that his failure to seek asylum detracted from his credibility in claiming he would face persecution upon return to Turkey.

[39] The Board also found that even if his lawyer had so advised, the applicant had no subjective or objective fear in the first place. The Board noted that his refugee claim in Canada was made two and a half years after his alleged last beating in Turkey and described this as an "afterthought".

[40] The applicant submits that the Board erred in relying on selective passages from the decision of Justice Pinard in *Matos Quintana v Canada*, 2011 FC 579, [*Matos Quintana*], to conclude that the delay undermined the applicant's subjective fear and that this case can be distinguished.

[41] The relevant passages are set out below, including the full text of the part paraphrased by the Board:

> [4] The panel also found that the fact that the applicant never sought asylum in the United States during his stay there, which was close to three months, undermined his credibility. It found that the applicant had invented his story in order to come to Canada and join his family after his two visa applications had been refused.
>
> ….
>
> [6] After reviewing the evidence and hearing counsel for the parties, the panel's findings with respect to the contradictions and omissions attributed to the applicant seem generally reasonable. It is clear that the panel was entitled to compare the applicant's testimony to the information in the newspaper article in question. The fact that the panel did not interpret this article in the same way as the applicant is not an error in itself.
>
> [7] I therefore agree with the respondent that, given the obvious lack of credibility with respect to the claim's central event, it was not unreasonable for the panel to attach no probative value to the exhibits submitted by the applicant. To this end, it is important to reproduce the following excerpt from the decision I rendered in docket IMM-3590-95, *Satinder Pal Singh v. The Minister of Citizenship and Immigration of Canada*, on October 18, 1996:
>
> > . . . As the Federal Court of Appeal held in *Sheikh v. Canada*, [1990] 3 F.C. 238, 244, the perception that an applicant is not credible on a fundamental element of his claim in fact amounts to a finding that there is no credible evidence sufficient to justify the refugee claim in question.
>
> [8] In particular, there is nothing unreasonable with the way the abduction report and the psychological report were dealt with. The panel was entitled to interpret them as it did. The same can be said

> for the two reports without letterhead or coat of arms, as the panel noted that it had specialized knowledge of Peruvian documents and that the documents did not possess these elements. With respect to the applicant's two police notices to appear, even though the panel did not find that they were not authentic, I do not find its decision to attach no probative value to them unreasonable. The notices to appear are short and merely state that the applicant must present himself at the police station to answer questions about the murder. I do not find, as alleged by the applicant, that these documents necessarily prove that he was present at the murder.
>
> [9] I further find that it was not unreasonable for the panel to find that the applicant's failure to claim asylum in the United States, where he stayed from April 15 to June 20, 2008, and for which he had a 5-year visa, could be used to undermine his credibility.

[42] Contrary to the applicant's submissions, I find *Matos Quintana* to be applicable to the present circumstances given that the Board in the present case also made several credibility findings about the applicant, Mr Sahin, and these findings were about the key allegations of detention and beatings he alleged in Turkey.

[43] In *Trejos v Canada (Minister of Citizenship & Immigration)*, 2011 FC 170 at para 48, Justice Kelen noted that, "Whether a delay in claiming refugee protection will on its own be sufficient for finding a lack of subjective fear of persecution and disposing of a refugee claim depends upon the facts of the case."

[44] In the present case, the applicant remained for well over two years in the US without seeking asylum. The Board found that if the applicant had feared persecution in Turkey he would have sought protection shortly after arriving in the US, even though he had a five year visa.

[45] The finding that the applicant did not have a subjective or objective fear of persecution was reasonably open to the Board to make given the delay and the applicant's overall lack of credibility and failure to provide other credible documents to support his claim.

Conscientious Objector

[46] The applicant submits that the Board erred in finding that he was not a conscientious objector to military service. The applicant argues that the letter from the Ministry of National Defence which was provided at his own request and indicates that the applicant has no objection to military service until February 21, 2011 is not inconsistent with his submission that he is a conscientious objector.

[47] The applicant also submits that the Board failed to make a finding about the authenticity of this letter and may have considered it to be fraudulent because it was not an original.

[48] As I noted above, the Board did accept and consider the letter, although it was provided after the hearing. The Board noted that it was not an original and stated that it attributed low weight to the document based on its content. The Board also referred to the testimony of the applicant regarding his military service. The Board did not accept the applicant's explanation that he did not object to all military service, only military service that would involve him fighting Kurds, but that he still should be considered as a conscientious objector.

[49] The Board asked the applicant "if Turkey was invaded by a foreign nation would you assist Turkey in defending itself?" The applicant replied:

> "It depends, like, the situation of Turkey at that time. I have to first check who is invading Turkey and what for, and if I have equal rights as Turks, if my people have equal rights as Turks, then I will defend Turkey… but in a country if I have the equal rights in that I'm treated as a human being, then of course I will defend that country. I would be proud of that."

[50] Based on the oral testimony and the documentary evidence, the Board reasonably found that the applicant is not a conscientious objector.

[51] I would also note that it is well established that even if the applicant were a conscientious objector, this would not be a basis for his section 96 claim.

[52] In *Ates v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 322, the Court of Appeal held that repeated prosecutions and incarcerations of a conscientious objector for the offence of refusing to do his military service do not constitute persecution on a Convention refugee ground.

Failure to conduct a Section 97 analysis

[53] The applicant submits that the Board failed to conduct a section 97 analysis by failing to turn its mind to whether the applicant's membership in an opposition political party and a pro-Kurdish group merits protection under section 97 *IRPA*. The applicant submits that his status as a conscientious objector would also put him at risk and, even if this did not amount to persecution, it was relevant to the section 97 analysis.

[54] I do not agree that the Board failed to conduct a section 97 analysis. When the decision is read as a whole, it is apparent that the Board considered both Mr Sahin's risk of persecution under section 96 and his risk under section 97 and found that he would not be at risk due to his political activities nor would he face a risk to his life or to cruel and unusual punishment or to torture if returned to Turkey. The Board noted that even if the applicant was a conscientious objector (which the Board found not to be so) this would not amount to persecution. The Board noted that in Turkey, refusal to serve in the military would result in criminal prosecution, but that this is a law of general application.

[55] The case law has established that refusal to serve in the military of one's country does not, on its own, justify refugee protection and that failing to comply with a law of general application, although it may result in prosecution, does not constitute persecution.

[56] These principles were noted by Justice Shore in *Ozunal v Canada (Minister of Citizenship and Immigration*), 2006 FC 560:

> [16] The Board noted that while Mr. Ozunal had clearly expressed his aversion to military service, his explanations were not sufficient to lead to the conclusion that he is a conscientious objector. Refusal to serve because one bears aversion to combat or military action cannot in and of itself justify granting refugee status. (*Marek Musial v. Minister of Employment and Immigration*, [1982] 1 F.C. 290; *Popov v. Canada (Minister of Employment and Immigration)* (1994), 75 F.T.R. 90, [1994] F.C.J. No. 489 (QL).)
>
> [17] As a conscientious objector, Mr. Ozunal was required to demonstrate not only the possession of such conviction but also the existence of a reasonable chance that he, if conscripted, would be required to participate in military activities considered illegitimate under existing international standards. (*Atagun v. Canada(Minister of Citizenship and Immigration)*, 2005 FC 612, [2005] F.C.J. No. 820 (QL), at paragraph 7.)

> ….
>
> [22] The Board found that the Turkish law is a law of general application and that Mr. Ozunal's claim had to be considered in the context of the decision of the Federal Court of Appeal in *Zolfagharkani v. Canada (Minister of Employment and Immigration)*, [1993] 3 F.C. 540 (F.C.A.), [1993] F.C.J. No. 584 (QL).
>
> [23] Compulsory military service alone cannot be a ground for Convention refugee status as it is not inherently persecutory. (*Popov*, above, at paragraph 6.)
>
> [24] Furthermore, prosecution for failing to comply with a law of general application, such as a law requiring military service, does not generally constitute persecution. (*Talman v. Canada (Solicitor General)* (1995), 93 F.T.R. 266, [1995] F.C.J. No. 41 (QL); *Perez de Gomez v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 558, [2005] F.C.J. No. 681 (QL), at paragraph 11.)

[57] Similarly in *Usta v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1525, Justice Phelan noted that the Turkish law which required military service was of general application and found that the applicant's failure to serve would not amount to persecution. Justice Phelan set out general principles to determine whether a law of general application may constitute persecution:

> [14] The Board gave proper consideration to the four principles applicable to determining whether an ordinary law of general application may constitute persecution:
>
> After this review of the law, I now venture to set forth some general propositions relating to the status of an ordinary law of general application in determining the question of persecution:
>
> (1) The statutory definition of Convention refugee makes the intent (or any principal effect) of an ordinary law of general application, rather than the motivation of the claimant, relevant to the existence of persecution.
>
> (2) But the neutrality of an ordinary law of general application, vis-a-vis the five grounds for refugee status, must be judged objectively by Canadian tribunals and courts when required.

> (3) In such consideration, an ordinary law of general application, even in non-democratic societies, should, I believe, be given a presumption of validity and neutrality, and the onus should be on a claimant, as is generally the case in refugee cases, to show that the laws are either inherently or for some reason persecutory.
>
> (4) It will not be enough for the claimant to show that a particular regime is generally oppressive but rather that the law in question is persecutory in relation to a Convention ground. *Zolfagharkhani v. Canada (Minister of Employment and Immigration*, [1993] 3 F.C. 540, paras. 18-22 (F.C.A.).
>
> [15] The Board also gave consideration to whether such law or its application constituted cruel and unusual treatment or punishment. The fact that the law is more harsh than laws in Canada or that Turkish prisons are not of the same standard as Canadian prisons is not sufficient to establish this ground under section 97.
>
> [16] It is not for Canada to comment upon or give protection to those who break the law of their own land and would be subject to harsher treatment than in Canada unless such treatment rises to the level of torture, creates a risk to life or is inherently cruel. The requirement to meet one's citizenship duties, even after imprisonment, does not, in and of itself, rise to that level. It was open to the Board to find, on the evidence, that the Turkish law, its application and its consequences, including prison treatment, did not rise to the section 97 threshold.

[58] In the present case, the Board did not accept that the applicant was a conscientious objector nor did the Board accept that the applicant would face any consequences beyond prosecution in the event that he refused to serve in the military. The Board concluded that the applicant faced no danger if he returned to Turkey and rejected the section 97 claim.

Conclusion

[59] As noted above, the Board's findings with respect to credibility warrant a high degree of deference. The Board found the applicant to be lacking in credibility and reasonably found that the

evidence submitted by the applicant to overcome the negative credibility findings and to support his claim failed to do so. Contrary to the applicant's submissions, the Board did not fail to conduct a section 97 analysis. The Board considered whether the applicant faced a risk of persecution pursuant to section 96 and found that he did not, for the reasons stated, including a lack of subjective fear. With respect to the section 97 claim, the Board reasonably found that the applicant would not face any risk upon his return, even if he were considered a conscientious objector, as the law was one of general application.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed;

2. No question is certified

"Catherine M. Kane"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4228-12
STYLE OF CAUSE:	OZAN SAHIN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	January 28, 2013
REASONS FOR JUDGMENT AND JUDGMENT:	KANE J.
DATED:	June 17, 2013

APPEARANCES:

Michael Crane	FOR THE APPLICANT
Kareena R. Wilding	FOR THE RESPONDENT

SOLICITORS OF RECORD:

MICHAEL CRANE LAW OFFICE Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANT
WILLIAM F. PENTNEY Deputy Attorney General of Canada	FOR THE RESPONDENT