

Federal Court



Cour fédérale

Date: 20140326

Docket: IMM-132-13

Citation: 2014 FC 290

Ottawa, Ontario, March 26, 2014

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

KHOLIDA RASULOVA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Kholida Rasulova seeks judicial review of a decision rejecting her refugee claim on credibility grounds. The Refugee Protection Division of the Immigration and Refugee Board simply did not believe that Ms. Rasulova had converted to Christianity after coming to Canada, with the result that she did not have a *sur place* claim for refugee protection. The Board also found that, in any event, Ms. Rasulova had a viable internal flight alternative within Uzbekistan.

[2] While Ms. Rasulova takes issue with individual credibility findings made by the Board, she has not persuaded me that the Board's overall decision was unreasonable. As a consequence, her application for judicial review will be dismissed.

I. Analysis

[3] After arriving in Canada in 2011, Ms. Rasulova filed a refugee claim based upon her alleged fear of her ex-husband and his family because they are ethnic Uzbeks whereas she is Tadjik. Shortly before Ms. Rasulova's refugee hearing, however, she abandoned this story in its entirety. Instead, she filed an amended Personal Information Form with an entirely new claim, this one based upon the risks that she says that she would face in Uzbekistan as a result of her conversion to Christianity.

[4] There were major problems with Ms. Rasulova's original story, not the least of which was why her ex-husband would suddenly start harassing her in 2005, some seven years after the couple were divorced, and why he would be bothering her to get his son back, given that the child was 16 years old by then and was not even living in Uzbekistan. Documents produced by the applicant herself also called into question her claim that she and her ex-husband came from different ethnic groups.

[5] It is reasonably open to the Board to take negative credibility findings with respect to other aspects of a refugee claimant's story into account in assessing the credibility of a claim of religious conversion: *Jiang v. Canada (Minister of Citizenship and Immigration)*, 2012 FC 1067 at para. 27, [2012] F.C.J. No. 1149; *Xuan v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 673 at para. 20, [2013] F.C.J. No. 985.

[6] There were also real problems with Ms. Rasulova's evidence regarding her religious conversion. Although she claimed to have attended church on a regular basis over a period of some 18 months, she was unable to provide the Board with either the name of her Church or its address. Moreover, her evidence regarding her Christian faith was, to quote counsel for the respondent, "vague and generic".

[7] The Board acknowledged that there was evidence from Ms. Rasulova's pastor attesting to the sincerity of her Christian faith. However, the Board quite reasonably observed that clergy are unable to speak to the motives underlying a religious conversion.

[8] At the end of the day, the Board was simply not persuaded of the sincerity of Ms. Rasulova's conversion to Christianity. This was a finding that was reasonably open to the Board on the record before it and was determinative of her refugee claim. As a consequence, it is not necessary to address the Board's alternative finding that Ms. Rasulova had an internal flight alternative within Uzbekistan.

II. Conclusion

[9] For these reasons, the application for judicial review is dismissed. I agree with the parties that the case does not raise a question for certification.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application for judicial review is dismissed.

"Anne L. Mactavish"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-132-13

STYLE OF CAUSE: KHOLIDA RASULOVA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 20, 2014

**REASONS FOR JUDGMENT
AND JUDGMENT:**

MACTAVISH J.

DATED: MARCH 26, 2014

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FOR THE APPLICANT

Mr. Alex Kam

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