

Federal Court



Cour fédérale

Date: 20140326

Docket: IMM-1173-13

Citation: 2014 FC 293

Toronto, Ontario, March 26, 2014

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

SURASAK YAFU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The Refugee Protection Division of the Immigration and Refugee Board of Canada denied the Applicant's claim for refugee protection on the basis that he was not credible, he did not have subjective fear, and that in any event, he had an internal flight alternative [IFA] in Bangkok, Thailand.

[2] Mr. Yafu alleges that his agent of persecution is a loan shark from whom Mr. Yafu's father borrowed money.

[3] At one point, the loan shark gave Mr. Yafu's father an ultimatum: sell his land and home to repay the debt, or send Mr. Yafu overseas to work on a farm and pay the debt with his wages. Mr. Yafu's father did not want to sell the farm so he agreed to send Mr. Yafu to Canada to work. Mr. Yafu arrived in Canada on a work permit on April 3, 2006. Although the work permit expired in 2007, he has remained in Canada.

[4] Mr. Yafu claims that if he were returned to Thailand, the loan shark would find him and he would be in danger. Mr. Yafu filed an application for humanitarian and compassionate considerations in March 2010, which is still outstanding. He later filed for refugee protection in July 2012.

[5] Mr. Yafu raises several issues; however, they need not be examined because even if he were to succeed on them, I am of the view that the Board's IFA finding was reasonable and therefore Mr. Yafu cannot be afforded protection under the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[6] In order to fall within the scope of section 96 or 97 of the *Act*, there must be no part of the country to which an applicant could flee in order to avoid the persecution or risk of torture or risk to life.

[7] The Court of Appeal in *Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 (CA) at para 15, set out the appropriate test to be applied in considering whether an IFA is viable:

We read the decision of Linden J.A. for this Court [in *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (CA)] as setting up a very high threshold for the unreasonableness test. It requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area. In addition, it requires actual and concrete evidence of such conditions. The absence of relatives in a safe place, whether taken alone or in conjunction with other factors, can only amount to such condition if it meets that threshold, that is to say if it establishes that, as a result, a claimant's life or safety would be jeopardized. This is in sharp contrast with undue hardship resulting from loss of employment, loss of status, reduction in quality of life, loss of aspirations, loss of beloved ones and frustration of one's wishes and expectations. (emphasis added)

[8] Once an IFA has been identified, the onus is “on the applicant to demonstrate, on a balance of probabilities, that he was nonetheless at risk of being persecuted there.” *Correa v Canada (Minister of Citizenship and Immigration)*, 2012 FC 243 at para 16.

[9] The RPD asked Mr. Yafu numerous times at the hearing why Bangkok would not be a viable IFA. His responses were not compelling. The following are illustrative of his responses: “I don’t know,” “I don’t know whether I would be safe,” and “I don’t know if I were to return – I don’t know what would happen to me.” When asked if the agent of persecution would find him in Bangkok, he responded: “I don’t know but I think they will know if I return.”

[10] Mr. Yafu focused on the difficulty he would face in paying off the debt given that “if I work in Bangkok so the income would be very small. I would not be able to pay off my debt” and “I like staying here because everything will be paid in dollar term.” He also indicated that he would not like to go to Bangkok because he would want to return home to see his family if he were returned to Thailand because he missed them having been away from them for so long.

[11] None of these responses discharge his burden of showing that he would be at risk in Bangkok. Mr. Yafu submits in his written representations that the Board ignored his testimony that the loan shark would find him. Nowhere in his testimony does he say that the loan shark would find him if returned to Bangkok. Moreover, there was no evidence before the Board that the loan shark had influence outside the community where Mr. Yafu had lived or connections in Bangkok that might result in Mr. Yafu’s return becoming known.

[12] Having found the Board’s finding of an IFA in Bangkok to be reasonable, this application must be dismissed.

[13] No question was proposed for certification.

JUDGMENT

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

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1173-13

STYLE OF CAUSE: SURASAK YAFU v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 26, 2014

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

DATED: MARCH 26, 2014

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