

Federal Court



Cour fédérale

Date: 20150319

Docket: IMM-6873-13

Citation: 2015 FC 348

Ottawa, Ontario, March 19, 2015

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

**ALONA DAVIDSON
YARON DAVIDSON
ADAM SHMUEL DAVIDSON
ELIAD-ALEXANDER DAVIDSON
AHARON ZOHAR DAVIDSON**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is the judicial review of a decision by the Refugee Protection Division [RPD] dismissing the Applicants' claim for refugee status and for protection.

II. Background

[2] The main Applicant, Alona Davidson [Applicant], and her four children are citizens of Israel. The Applicant immigrated to Israel in 1990 and began living with an Arab Bedouin, Gaber Karaja, in 1993 after she became pregnant.

[3] Approximately four months later, Gaber Karaja was killed in a blood feud incident with the Jarushi family. The blood feud has continued to the present day resulting in 24 murders and many injuries.

[4] The Applicant provided the police with all the information about this killing. The police had warned Gaber about possible harm but did not provide any protection. As a result of the Applicant's evidence and other witnesses, two of the three murderers were convicted and jailed.

[5] The Applicant had a son by Gaber and named him Gaber after his murdered father. She received a threat against her son, reported it to police but the complaint was not accepted.

[6] The Applicant married Ron Davidson, had three children by him and changed young Gaber's name to Yaron to minimize risk to him.

[7] In February 2010, the Applicant learned that the Jarushi clan were showing interest in her and Yaron. She did not report her concerns to police because she feared being forced to disclose the source of her information which would put the sources at risk.

[8] The RPD dismissed the claim because of (a) lack of nexus to a Convention ground and (b) the failure to rebut the presumption of state protection. In so doing the RPD rejected the evidence of a former Israeli police officer finding it not credible, sufficient or convincing.

[9] The RPD's determinative finding was that there was no credible evidence to suggest that Israeli police authorities would not act and provide the claimants with adequate protection should evidence suggest that a criminal act has or would take place against the claimants notwithstanding any issue of resources. The RPD put considerable reliance on the current US DOS report.

III. Analysis

[10] It is well established that state protection is reviewable on the reasonableness standard (*Kovacs v Canada (Citizenship and Immigration)*, 2010 FC 1003).

[11] While there are arguably soft spots in the analysis of the claim, any such concerns are addressed by the overall reasonableness of the decision.

[12] The RPD did not just focus on the "willingness" of Israeli authorities although it did refer to willingness. The RPD did note that there were difficulties with the claim, particularly the knowledge since 1994 that Yaron and Alona's lives were in danger and that this danger could become very real when Yaron turned 18 (the rules of this blood feud dictate not killing until a person is 18). In the face of that knowledge and warnings by family members in 2011, the Applicant did nothing.

[13] The RPD also had evidence that the Applicant had travelled frequently outside Israel to Convention countries yet took no efforts to claim protection. That evidence, along with the US DOS Report, the concrete action of the police when Gaber Sr. was killed and the Applicant's failure to seek protection from 1994 onwards provided a reasonable basis for the conclusion that the Applicants were not in need of protection; that if protection was needed, it was adequate and available in Israel.

IV. Conclusion

[14] This judicial review will be dismissed. There is no question for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

"Michael L. Phelan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6873-13

STYLE OF CAUSE: ALONA DAVIDSON, YARON DAVIDSON, ADAM SHMUEL DAVIDSON, ELIAD-ALEXANDER DAVIDSON, AHARON ZOHAR DAVIDSON v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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JUDGMENT AND REASONS: PHELAN J.

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