

Federal Court



Cour fédérale

**Date: 20151208**

**Docket: IMM-2981-15**

**Citation: 2015 FC 1358**

**[UNREVISED ENGLISH CERTIFIED TRANSLATION]**

**Ottawa, Ontario, December 8, 2015**

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

**BETWEEN:**

**SUMREEN KHURRAM  
MUSKAN SIDDIQUI  
MUHAMMAD SARIB  
MUHAMMAD USMAN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is the second judicial review of a decision by the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada that the principal applicant and her children are neither refugees nor persons in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*.

[2] In the first judicial review, Justice St-Louis allowed the application, overturned the decision and remitted the matter back to the RAD for redetermination on the ground that the RAD had considered the evidence on file from a judicial review standpoint instead of making its own independent analysis.

[3] I am satisfied that this time the RAD conducted its own independent analysis. The Member listened to the audio recording of the hearing before the Refugee Protection Division [RPD] and, in my opinion, reasonably found that the contradictions and omissions in Ms. Khurram's testimony did not render her credible.

[4] In her original application she alleged that she feared being persecuted by the family of her husband's second wife if she returned to Pakistan. She stated that the threats began in 2006, but she alleges that she only learned of her husband's second wedding in 2012.

[5] She feared she would lose custody of her three children. However, her husband consented to her having custody and bringing them to Canada.

[6] Later, she modified the basis of her refugee claim to add that she was also a victim of domestic violence and that the IRB's *Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution* [the Guidelines] applied to her.

[7] She did not mention this in her original *Basis of Claim Form* because she did not want to confide in her father, Pakistan being a patriarchal society. Her father was the one who completed

the form on her behalf. She testified, however, that she confided in both her parents who encouraged her to come to Canada. Not only was it reasonable to conclude that both her parents were aware of her alleged situation, but moreover, the applicant confirmed this in her testimony.

[8] Her father may very well have completed the form on her behalf but there is no evidence to support the hypothesis that he wrote anything other than what the applicant would have indicated.

[9] The Guidelines cannot be used to compensate for omissions. See *Correa Juarez v Canada (Citizenship and Immigration)*, 2010 FC 890, a decision by Justice Kelen who, in paragraphs 17 et seq., refers to Justice Pinard in *Karanja v Canada (Citizenship and Immigration)*, 2006 FC 574. The RPD and the RAD both considered the Guidelines.

[10] The applicable standard of judicial review for this Court is reasonableness. The RAD decision certainly falls within a range of possible solutions (*Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190).

[11] The application for judicial review is therefore dismissed. No serious question of general importance was raised and none will be certified.

**JUDGMENT**

**FOR THE STATED REASONS;**

**THE COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There is no serious question of general importance to certify.

"Sean Harrington"

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Judge

Certified true translation  
Elizabeth Tan, Translator

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

**DOCKET:** IMM-2981-15

**STYLE OF CAUSE:** SUMREEN KHURRAM ET AL v MCI

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** NOVEMBER 30, 2015

**JUDGMENT AND REASONS:** HARRINGTON J.

**DATE OF REASONS:** DECEMBER 8, 2015

**APPEARANCES:**

Jeanne LaRochelle

FOR THE APPLICANT

Lyne Prince

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Jeanne LaRochelle  
Counsel  
Montréal, Quebec

FOR THE APPLICANT

William F. Pentney  
Deputy Attorney General of Canada  
Montréal, Quebec

FOR THE RESPONDENT