

Federal Court



Cour fédérale

Date: 20170119

Docket: IMM-2117-16

Citation: 2017 FC 67

Toronto, Ontario, January 19, 2017

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MISHAEL EMMA DAVID

Applicant

and

**THE MINISTER OF IMMIGRATION,
REFUGEES AND CITIZENSHIP**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, a female citizen of Pakistan, arrived in Canada on January 7, 2016; and, made an unsuccessful refugee claim, based on persecution as a Christian young woman whose alleged well-connected extremist suitor wanted her to convert to Islam.

[2] The family of the Applicant have been Christians of long-standing for generations, both practicing and studying the Christian faith as part of their upbringing and spiritual heritage.

[3] Her college, although Christian named, Forman Christian College, is composed of a majority Moslem student body and faculty. The Applicant was pressured when asked to join the Islamic society which she declined to do.

[4] The Applicant submits that the Immigration and Refugee Board of Canada [IRBC], Refugee Protection Division, erred in having made adverse credibility findings in her regard. Precluded from appealing to the Refugee Appeal Division, as she had arrived in Canada via United States, she has, thus, presented her judicial review to the Court, for the Court to consider whether a new hearing is warranted.

[5] A new hearing would be warranted, if the Board erred in its assessment of the credibility findings in respect of the Applicant. This Court finds that the Board did, indeed err in its credibility findings, as it failed to conduct a proper analysis of the country condition documentary evidence as linked to the Applicant's narrative.

[6] It is duly noted that, as related by the Applicant without contradiction, the suitor of the Applicant stated that "he will start a blasphemy case against me and then they will come to me instead and arrest me... He said that I must be prepared that day to convert to Islam so that he and I can have a traditional "Nikkah" or wedding ceremony".

[7] The contradictions that the Board brought forward are peripheral in their overall orientation; and, do not take into account, both the Applicant's subjective (personal) evidence and the objective country condition evidence. As submitted in evidence, the International Crisis

Group Report for 2015, entitled “Women, Violence and Conflict in Pakistan”, clearly indicates the potential persecution in cases such as that of the Applicant, if, in fact, the person is non-Moslem, or belongs to a minority Moslem entity: “The UNHCR Guide to Assessing Religious Minorities in Pakistan draws a picture of peril in respect of Christian women” (UN High Commissioner for Refugees (UNACR), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan, 14 May 2012, HCR/EG/PAK/12/02 at Exhibit D of the Applicant’s Affidavit).

[8] In addition, the evidence of violence against women is extensive everywhere in the country. Reference is made to the 2015 Amnesty International Report on Pakistan. Therefore, this evidence clearly sets aside, in respect of the evidentiary specifics of this case, the internal flight alternative to Karachi, which was suggested by the Board Panel in its decision to the Applicant. The case demonstrates the Applicant, as a single woman in her society, cannot just pick up and leave to another city by herself without grave danger to her person.

[9] Assertion by a government and even legislation, if not backed up with tangible enforcement, is but a wishful-thinking illusion (*Meza Varela v Canada (Citizenship and Immigration)*, 2011 FC 1364 and *Bledy v Canada (Citizenship and Immigration)*, 2011 FC 210).

[10] It is of significance that the Board did not even address a core piece of evidence on file, a letter from the Pasteur, in Pakistan, whose church the family of the Applicant attends, in which he clearly writes that the suitor came to the house of the Applicant, accompanied by others and

demanded that the Applicant convert to Islam. He adds that the police is not a viable option in which Christians place confidence in such matters for their security.

[11] The U.K. Report, as per Country Information and Guidance: Pakistan, Religious Freedom, Exhibit D, speaking of the IRBC, itself, as to the Board's own consultations, in January 2013, clearly reports that "police officers are reported to have committed the following crimes against Christians: gang rape, murder, fabricating cases or falsifying charges, beatings and torture".

[12] For all of the above reasons, the decision cannot be allowed to stand. The file is to be returned to the Board for consideration anew by a differently constituted panel.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be granted; the file is to be returned to the Board to a differently constituted panel for consideration anew. There is no serious question of general importance to be certified.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2117-16

STYLE OF CAUSE: MISHAEL EMMA DAVID v THE MINISTER OF
IMMIGRATION, REFUGEES AND CITIZENSHIP

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 19, 2017

JUDGMENT AND REASONS: SHORE J.

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