

Federal Court



Cour fédérale

**Date: 20170427**

**Docket: IMM-3263-16**

**Citation: 2017 FC 415**

**Ottawa, Ontario, April 27, 2017**

**PRESENT: The Honourable Madam Justice McVeigh**

**BETWEEN:**

**ASMA ASIM  
MAIDA MAJEED  
MUHAMMAD MOHID**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Introduction**

[1] Mrs. Asma Asim and her two children, Maida Majeed and Muhammad Mohid [the Applicants], are citizens of Pakistan who claim refugee status due to a fear of an unknown extremist group. The Refugee Protection Division [RPD] denied their refugee claim on the basis

that they had an internal flight alternative [IFA] within Pakistan. This application is a judicial review of their rejected refugee claim.

## II. Background

[2] Prior to their arrival in Canada, the Applicants lived in Lahore where Mrs. Asim's eldest son attended a Madrassa on weekends. Shortly after beginning school at the Madrassa, the parents noticed extremist texts in their son's belongings and discovered that extremists were preaching to the students. The parents removed their son from the Madrassa and received threatening phone calls as a result. On March 16, 2016, two persons attempted to forcibly escort the son to their car and were scared off by a security guard. The parents, fearing for their son's safety, fled to Islamabad.

[3] While in Islamabad, the son became ill and was taken to a clinic by his father. While there, two men entered and the son identified one of them as a preacher from the Madrassa. The father scuffled with the two men until a police van happened upon the scene. The two men fled. Mrs. Asim travelled with her two children to the United States on March 29, 2016, and entered Canada on April 12, 2016, claiming refugee status.

[4] On June 30, 2016, the RPD rejected the Applicants' refugee claim. In its reasons, it found that while the basic facts as alleged were credible, the Applicants had an IFA within Pakistan which was, amongst others, in Faisalabad where Mrs. Asim was born. When relocation was suggested as an alternative to fleeing Pakistan, no significant problems were expressed by the Applicants.

[5] The RPD noted that Faisalabad is a large city of 3.5 million people and despite evidence of general insecurity there was nothing to suggest that the Applicants would face any greater risk than the general population. The RPD noted that the Applicants lived without issue in Lahore until the events with the Madrassa despite similar concerns over general instability in that city.

[6] The RPD had insufficient evidence to find that the eldest son would be so affected by his trauma in Lahore as to make relocation to Faisalabad unreasonable. While Canada may be a preferred location to settle, the RPD did not find this sufficient to render the IFA unreasonable.

[7] The RPD found that there was less than a mere possibility of persecution in Faisalabad should the Applicants move there. Furthermore, without knowing which extremist group may be threatening the Applicants, there was insufficient evidence to indicate that those threatening the Applicants would or could seek them out on a national scale.

[8] Finally, the RPD noted that the Applicants have family remaining in Pakistan, including the principal applicant's husband and her brother-in-law. There was no evidence of contact by the extremist group with the Applicants' family that suggested that the extremist group was attempting to find the Applicants. Further, the Applicants' previous servant accessed their home to obtain important documents and no evidence was found of an attempted break in. The RPD could find no credible evidence that the group was looking for the Applicants. Having found the Applicants did not face more than a mere possibility of persecution and that they were unlikely to face a risk to their life, a risk of cruel and unusual punishment or danger of torture, their refugee claim was rejected.

III. Issue

[9] The only issue raised by the Applicants is whether the RPD's assessment of the IFA was reasonable?

IV. Analysis

[10] The Applicants argue that the RPD conflated the two branches of the IFA test. It is submitted that the reasonableness of the IFA does not depend on a lack of personalized risk to the Applicants. This erroneously imports a section 97 form of analysis to the IFA test. The Applicants' position is that since the board's decision is based solely on this test, it must be sent back for redetermination. According to the Applicants, the work on the Committee on the Rights of the Child, Comment Number 14 (2013), at page 4, confirms that the RPD's assessment of internal flight test is flawed.

[11] The Applicants submit that the documentary evidence contradicts the RPD's conclusion that the children could attend school in Faisalabad as schools in Pakistan are often seen as soft targets by extremist groups. The Applicants say this was ignored by the RPD and though the RPD acknowledges the physical and mental suffering experienced by the eldest son due to the attempted kidnapping, it erroneously concluded that he would not suffer further problems in Faisalabad. The fact that he stopped attending school in Pakistan and resumed his studies in Canada is sufficient to find the decision unreasonable.

[12] The Applicants rely on *Chandidas v Canada (Minister of Citizenship and Immigration)*, 2013 FC 257, for the position that the RPD failed to take the best interests of the child into consideration. They presented that the RPD assessed the reasonableness of their return to Pakistan through a hardship lens rather than taking the best interests of the child into account. The Applicants argue it was an error for the RPD to omit the child claimants' guidelines and that there is no indication it was taken into account.

[13] Finally, the Applicants state that the RPD concluded there was no evidence they would be found in Faisalabad contrary to sworn testimony. Mrs. Asim testified that the men who entered the clinic in Islamabad had clearly followed them. The RPD's conclusion to the contrary is therefore unreasonable.

[14] The errors alleged to have been committed by the RPD are reviewable on a standard of reasonableness (*Abdalghader v Canada (Minister of Citizenship and Immigration)*, 2015 FC 581 at para 21 [*Abdalghader*]; *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*]).

[15] I am unable to agree with the Applicants and will dismiss the application.

[16] The two-prong test applicable to an IFA analysis is well established. The RPD must be satisfied, on a balance of probabilities, that:

- i. there is no serious possibility of the applicant being persecuted in the part of the country in which it finds an IFA exists; and

- ii. the conditions in that part of the country are such that it would not be unreasonable for the applicant to seek refuge there (*Chowdhury v Canada (Minister of Citizenship and Immigration)*, 2014 FC 1210 at para 22 [*Chowdhury*]; *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (FCA) [*Thirunavukkarasu*]).

[17] The RPD's reasons demonstrate that it did not blend the test for IFA. It conducted its analysis in reverse order (reasonable to seek refuge followed by persecution), but that does not make the decision unreasonable. The RPD first determined that it would be reasonable for the Applicants to relocate to Faisalabad. It then found that the Applicants would not face more than a mere possibility of persecution if they were to relocate there.

[18] The Applicants bear the burden and failed to show how they would be personally subjected, on a balance of probabilities, to a risk to life or a risk of cruel and unusual punishment in the entire country and specifically in Faisalabad (*Abdalghader*, above, at para 22; *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (CA)). The threshold is high for what makes an IFA unreasonable and has not been met in this case (*Khokhar v Canada (Minister of Citizenship and Immigration)*, 2008 FC 449 at para 41).

[19] The Federal Court of Appeal has said that the IFA must be realistically accessible and that barriers to travel should be reasonably surmountable (*Thirunavukkarasu*, above, at paras 14-15).

[20] In finding Faisalabad as an IFA, the RPD reasonably concluded that there was no serious possibility of the Applicants being persecuted there. Under the circumstances, conditions in the country were such that it would not be unreasonable for them to seek refuge there. The board even divided its reasoning into two sub-headings: 1) “is it reasonable?” and 2) “is it safe?” which corresponds to the two parts of the IFA test.

[21] The RPD considered all of the circumstances, and assessed the reasonableness of the Applicants’ moving to Faisalabad as demonstrated in the following findings:

- a) The principal applicant indicated that it would not be unreasonable for her and her family to relocate to Faisalabad. The board noted “when asked, the principal claimant did not express any significant problems they may encounter if they were to relocated to this city, other than that they would continue to fear the unknown extremist group” (at para 9) [emphasis added];
- b) The principal applicant stated that she and her husband could re-establish their real estate business in any city and that the children can attend school (at para 10);
- c) The board then considered the general security problems in Faisalabad, which are similar to that across the country. Reasons must be considered in context and in this case, the board noted that the Applicants lived without incident in Lahore before the Madrassa incident and this was despite the same general security concerns, so Faisalabad is not an unreasonable city for them to live in (at para 10);
- d) The board assessed whether the extremist group would persecute the Applicants in Faisalabad. It did a thoughtful consideration of whether the extremist group would or could find the Applicants in a city of 3.5 million people;
- e) The RPD noted that the principal applicant’s husband, brother-in-law and other family members have not been contacted by the extremist group. Nor has their home been broken into. The Applicants failed to put forward sufficient credible evidence that they would be persecuted. Their only evidence is a chance encounter in Islamabad;
- f) The principal applicant’s husband and father are still in Pakistan and are safe though they do say he is in hiding they remain in constant contact with him though they do not know what efforts he makes to remain hidden from the group and the RPD concluded that there is a lack of interest in them.

[22] The RPD took the eldest son’s mental and physical health into consideration under its reasonableness analysis. No psychological assessment was provided to the RPD, even though it

can be central to the reasonableness of a proposed IFA (*Verma v Canada (Minister of Citizenship and Immigration)*, 2016 FC 404).

[23] Contrary to the Applicants' arguments, the RPD's treatment of the documentary evidence regarding the terrorists' targeting of schools is reasonable. The documentary evidence from online news sources, when reviewed, relates to incidents in Islamabad, graffiti in Faisalabad, and incidents unrelated to schools as well as some related to schools. The RPD reasonably concluded there was no barrier to attending school as the children had already attended public school as well as religious school.

[24] The RPD concluded that there was insufficient evidence to find that the son would be so affected by internal relocation as to make Faisalabad unreasonable. The Applicants simply failed to meet the onus which was upon them.

[25] It was open to the RPD to weigh all the evidence and come to a different conclusion than that suggested by the Applicants. Given the lack of evidence, its conclusion on the effects of relocation on the eldest son was reasonable. Paragraph 12 of the reasons seems to be a clerical error as the sentence is incomplete, but that is not fatal to this decision.

[26] The Applicants' argument that the RPD imports an s. 97 personalization analysis to country conditions is without merit. The RPD is trying to discover if, for any reason, it would be unreasonable for the Applicants to move to Faisalabad. It found no reason based on general country condition or any other grounds.



[27] The RPD concludes that on a balance of probabilities the extremist group is not actively seeking the Applicants. It states at paragraph 17 that “there is insufficient evidence to establish the claimants would face more than a mere possibility of persecution should they relocate [to Faisalabad].” Its determination falls well within the spectrum of reasonable outcomes.

[28] The Applicants take issue with how the RPD approached the guidelines on child claimants and their best interests. While the RPD must take the particular circumstances of children into consideration at the initial refugee determination stage, it does not warrant a substantive analysis of their best interests. The RPD considered the position of the eldest son who was subjected to threats and attempted abduction including his psychological state.

[29] Further analysis on his best interests are better left to an application for humanitarian and compassionate relief (see *Kim v Canada (Citizenship and Immigration)*, 2010 FC 149). In addition, the mother was the principle applicant and the appointed representative as the children did not give evidence at the hearing. Therefore, this argument must also fail.

[30] I see no reason to intervene as I find the RPD reasonably concluded that the family would not be at risk if they lived in Faisalabad. Nor do I find any error in the manner in which the RPD assessed the IFA.

[31] I find that given the evidence before the board, the RPD rendered a decision that falls “within a range of possible, acceptable outcomes which are defensible in respect of the facts and law” (*Dunsmuir*, above, at para 47). There is no reviewable error.

[32] No question was presented for certification and none arose.

[33] The application is dismissed.

**JUDGMENT in IMM-3263-16**

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

1. The application is dismissed
2. No question is certified.

"Glennys L. McVeigh"

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Judge

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

**DOCKET:** IMM-3263-16  
**STYLE OF CAUSE:** ASIM ET AL V MCI  
**PLACE OF HEARING:** TORONTO, ONTARIO  
**DATE OF HEARING:** FEBRUARY 2, 2017  
**JUDGMENT AND REASONS:** MCVEIGH J.  
**DATED:** APRIL 27, 2017

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