

Federal Court



Cour fédérale

**Date: 20180820**

**Docket: IMM-100-18**

**Citation: 2018 FC 844**

[ENGLISH TRANSLATION]

Montréal, Quebec, August 20, 2018

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

**BETWEEN:**

**FATOUMA IBRAHIM YONIS  
MOHAMED MAHAMOU OSMAN  
IBRAHIM MAHAMOU OSMAN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review filed by Fatouma Ibrahim Yonis and her two sons (the applicants) against a decision of the Refugee Appeal Division (RAD) of the Immigration and Refugee Board of Canada dated December 14, 2017. The RAD dismissed an appeal from a decision by the Refugee Protection Division (RPD) finding that the applicants

were not Convention refugees or persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act, SC 2001, c 27*.

[2] The RAD accepted the RPD's findings that the testimonies were not credible. The principal applicant alleged that she had been arrested three times, although her form submitted upon entry into Canada mentions only two arrests. For each of the three alleged arrests, the RAD noted contradictions. The applicants are not arguing that those findings were unreasonable. Instead, they are arguing that the other issues they raise warrant allowing their application.

[3] The RAD also considered the issue of whispering during the hearing before the RPD. The RAD concluded that the applicants' explanations for that whispering undermined their credibility.

[4] The applicants claim that the whispering was related to difficulties with interpretation during the hearing. I do not accept that argument. Firstly, the applicants made no mention of interpretation difficulties before either the RPD or the RAD. Secondly, the argument that the whispering was related to interpretation difficulties contradicts the explanation provided by one of the principal applicant's sons that it was not whispering but rather prayer. I find that the RAD did not err in its analysis of the issues of whispering and the credibility of the testimonies.

[5] The parties agree that the standard of review applicable to this application is that of reasonableness. The applicants also accept that the RAD had to defer to the RPD's credibility findings. However, the applicants argue that the RAD erred in basing its decision on RPD

findings that are not related to credibility. Once again, I do not accept that argument. I find that, after conducting an independent analysis of the evidence, the RAD agreed with several of the RPD's findings. That does not indicate erroneous deference to the RPD's findings.

[6] The applicants argue that the RAD erred in requiring proof beyond reasonable doubt. I disagree. Clearly, the RAD understood that the level of evidence required was that there be more than a mere possibility of persecution or that, on a balance of probabilities, the applicants require protection.

[7] The applicants argue that the RAD erred in failing to recognize that the evidence indicates that the simple fact of the principal applicant belonging to the MRD political party was sufficient to create a risk of persecution that would warrant the claim for refugee protection being granted. The RAD considered the evidence, identified contradictions about the risk of persecution to members of political parties opposed to the government, and decided to place more weight on the more recent evidence indicating that the problems experienced by the opposition were sporadic and insufficient to amount to persecution. In my opinion, the RAD's analysis of this issue was reasonable.

[8] For the above reasons, I find that this application must be dismissed.

**JUDGMENT in IMM-100-18**

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

1. The application for leave and judicial review is dismissed.
2. There is no serious question of general importance to be certified.

“George R. Locke”

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Judge

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

**DOCKET:** IMM-100-18

**STYLE OF CAUSE:** FATOUMA IBRAHIM YONIS, MOHAMED  
MAHAMOU OSMAN, IBRAHIM MAHAMOU  
OSMAN v THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** JULY 10, 2018

**JUDGMENT AND REASONS:** LOCKE J.

**DATED:** AUGUST 20, 2018

**APPEARANCES:**

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Gabrielle White FOR THE RESPONDENT

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