

Federal Court



Cour fédérale

Date: 20181002

Docket: IMM-877-18

Citation: 2018 FC 979

Ottawa, Ontario, October 2, 2018

PRESENT: The Honourable Madam Justice McDonald

BETWEEN:

ALI TAHMASEBI

Applicant

and

**THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of the pre-removal risk assessment (PRRA) finding that he is not at risk in returning to Iran as a result of having converted to Christianity while in Canada. For the reasons that follow, this judicial review is dismissed as the PRRA Officer reasonably considered the evidence.

Background

[2] The Applicant is a citizen of Iran who became a permanent resident of Canada in 2008. In 2014, a removal order was issued against him for failing to comply with residency obligations. He filed a PRRA claiming fear of persecution in Iran as he had converted to Christianity while in Canada.

[3] The Applicant grew up in a Muslim household in Iran. He claims to have converted to Christianity while in Canada after experiencing a series of personal and financial hardships.

[4] On July 31, 2016, he claims to have received a court summons issued from Iran for “attending at propagandistic meetings against the system.” He believes that his ex-wife likely informed the Iranian government of his conversion to Christianity.

PRRA Decision

[5] In the January 5, 2018 PRRA decision, the Officer accepted that the Applicant was baptized as a Christian and was a member of two Christian churches in Canada.

[6] The Applicant believes that his ex-wife informed the Iranian government of his conversion to Christianity out of spite as he could not pay the dowry she requested. The Officer noted that there was no corroborating evidence to support the contention that the Iranian

government is aware of his religious conversion. Therefore, the Officer found this assertion highly speculative.

[7] The summons allegedly issued by the Iranian judiciary to the Applicant on July 31, 2016 was provided to the Applicant's brother in Iran. In the summons the Applicant is accused of "attending at propagandistic meetings against the system." The Officer found the summons to be vague and lacking in detail. The Officer had various concerns with the summons, including: why it was issued three years after the Applicant had last visited Iran, why the Iranian government would allege the Applicant attended propagandistic meetings, the circumstances surrounding the delivery of the summons, and how the summons related to the Applicant's Christian faith. The Applicant did not provide any explanations. There was also no evidence that the Iranian government contacted the Applicant or his brother once the summons date had lapsed. For these reasons, the Officer accorded little weight to this evidence.

[8] The Applicant also claimed that he was at risk of persecution by the Iranian government because he was involved in litigation against the government. However, he did not indicate how the litigation would put him at risk and no documentary evidence regarding the outcome of the litigation was provided. The Officer gave this evidence little weight.

[9] The Applicant also relied upon country condition reports regarding the treatment of Christians or apostates in Iran. The Officer noted that, while the country conditions do suggest human rights concerns, the Applicant did not provide any corroborating evidence as to how he is

personally at risk of persecution or harm in Iran. The Officer noted that country condition evidence alone is insufficient without proof of a link to the personalized situation of an applicant.

[10] The Officer conducted independent research and consulted more current information on the country conditions in Iran. The independent research revealed that authorities in Iran have little interest in religious practice that is done in private and that state actions are mainly targeted against home churches and active proselytizing. Based upon this information, the Officer determined that the Applicant's religious activities in Canada would not put him at risk if he were to return to Iran.

Issues

[11] The Applicant raises various issues with the decision, which are addressed as follows:

- A. Was it an error for the Officer to do independent research on country conditions?
- B. Did the Officer err in the treatment of the summons?

Standard of review

[12] The standard of review is reasonableness. A reasonable decision is one based on "justification, transparency and intelligibility within the decision-making process" that falls into a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[13] If there was a breach of an applicant's procedural fairness rights then the court shows no deference to an officer's decision.

Was it an error for the Officer to do independent research on country conditions?

[14] The Applicant raises two concerns with the PRRA Officer consulting country condition reports outside of those relied upon by the Applicant. First, he argues that it was a breach of his procedural fairness by not being informed of the country condition reports that were used in formulating the risk assessment. Second, he argues that the Officer failed to give balanced consideration to the information contained in these reports.

[15] Where the country condition information referenced by the Officer was available and accessible to the Applicant at the time of his application, fairness does not require the Officer to advise the Applicant in advance. Where the country condition information became available after the application, and where that information reveals novel or significant issues that change the country condition considerations, disclosure by the officer will be required (*Mancia v Canada (Minister of Citizenship and Immigration)* [1998] 3 FC 461).

[16] Here the materials referenced by the Officer were documents that were available to the public at the time of the Applicant's PRRA submissions. In any event, the country condition information referenced by the Officer did not identify "significant" or "novel" conditions or information that would have required disclosure to the Applicant.

[17] Accordingly, the PRRA Officer was not under an obligation to provide the Applicant with additional opportunities to address publicly available country conditions, and the Officer did not violate any of the Applicant's procedural rights.

[18] Regarding the Applicant's suggestion that that Officer was selective in the information he relied upon and he overlooked information that would be supportive of the Applicant's claim, the Officer correctly took into account that the country condition information disclosed human rights concerns. However, because the Applicant did not provide any corroborating evidence as to how he is personally at risk of persecution or harm in Iran, the Officer correctly noted that country condition evidence alone is insufficient without proof of a link to the personalized situation of an applicant.

[19] The conclusion of the Officer that the Applicant was not at risk of persecution should he return to Iran is reasonable.

Did the Officer err in the treatment of the summons?

[20] The Applicant argues that the Officer failed to properly consider the summons and the risk that it raises for him if he were to return to Iran.

[21] The summons issued in July 2016 states that the Applicant is "accused of attending at propagandistic meetings against the system". While the Officer did not express any concerns about the authenticity of the summons, the Officer did doubt that the summons was related to the

Applicant's Christian faith. The Applicant argues that the timeframe when he converted to Christianity and when he had an argument with his ex-wife coincide with the date of the summons. He suggests that this provides the necessary connection between his conversion and the summons. However, the Officer found this speculative.

[22] Further, the Applicant argues that the country condition information sourced by the Officer refers to apostates often being charged with "propaganda against the regime". This, he argues, explains the reason for the summons as well as the wording used in the summons. However, in the absence of information or context connecting the summons to the Applicant's conversion to Christianity, the Officer was not convinced that the Applicant was at risk because of the summons. The Officer noted a lack of any information on the circumstances giving rise to the issuance of the summons and how it was provided to the Applicant's brother. The Applicant himself speculated on how the summons came about (i.e. his ex-wife) but he did not provide any other contextual or corroborative evidence. Given this, it was not unreasonable for the Officer to find the summons evidence unsubstantiated and insufficient to support a risk allegation.

[23] In essence, on this judicial review, the Applicant is asking the court to re-weigh this evidence. That is not the role of the Court (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 61).

[24] Overall, the Applicant has not established any reviewable error in the PRRA decision. The Officer considered the evidence, considered the personal situation of the Applicant, assessed

the country conditions, and based the risk assessment on available documentary evidence. This judicial review is therefore dismissed.

JUDGMENT in IMM-877-18

THIS COURT'S JUDGMENT is that

1. The application for judicial review of the January 5, 2018 Pre-Removal Risk Assessment decision is dismissed; and
2. No question is certified.

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-877-18

STYLE OF CAUSE: ALI TAHMASEBI v THE MINISTER OF PUBLIC
SAFETY AND EMERGENCY PREPAREDNESS

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JUDGMENT AND REASONS: MCDONALD J.

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