Federal Court  Cour fédérale

Date: 20190626

Docket: IMM-6001-18

Citation: 2019 FC 865

[REVISED ENGLISH TRANSLATION]

Montréal, Quebec, June 26, 2019

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

RAMA DEBBANEH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] of a decision rendered by an international immigration officer denying the applicant's application for permanent residence as a member of the "Country of Asylum" class and as a member of the "Convention Refugee Abroad" class.

II. Facts

[2] The applicant is a 22-year-old citizen of Syria. She applied for permanent residence in Canada from Lebanon and was interviewed by an immigration officer in Beirut on September 6, 2018.

[3] According to the applicant's story, she allegedly experienced traumatic events in 2011 and in 2015 while she was living in Syria. She was allegedly so affected by the incident in 2015, that her father made the necessary arrangements for her to live in Lebanon with a paternal cousin. In August 2015, she therefore moved to the town of Burj Hammoud in Lebanon, and remained there until December 2017. She later moved to live with relatives in the town of Broumana.

[4] The applicant received an invitation for an interview that mentioned that, among other things that she was bringing, she would need to bring the card that Lebanese General Security gives to Syrian nationals at the border. According to the notes in the Global Case Management System (GCMS), the applicant initially said that she had lost the card. She eventually amended her story to indicate that she had never been in possession of the document because she had entered Lebanon illegally and therefore had no proof that she had been living in Lebanon for three years. During the interview on September 6, 2018, she explained that she had decided to make a return trip between Lebanon and Syria the day before for the purpose of obtaining a Lebanese-issued document to demonstrate that she had entered that country.

III. Impugned decision

[5] The immigration officer found that the applicant's statements were not credible and, consequently, that she did not satisfy the requirements in the IRPA and the *Immigration and Refugee Protection Regulations* SOR/2002-227 [IRPR].

[6] In short, the officer questioned the fact that the applicant had allegedly moved to Lebanon, alone, while her family had remained in Syria. The officer was allegedly not satisfied with the answers provided to his questions, finding them to be vague and to lack details. The officer noted that the applicant was not able to describe where she was living in Lebanon and that she had contradicted the documents she had provided during the interview.

[7] The officer did not believe that the applicant was living in Lebanon and found that the applicant (1) had not answered questions truthfully and (2) did not satisfy the requirements set out in the IRPA and the IRPR.

IV. Analysis

A. *Preliminary remarks by the respondent*

[8] Right from the outset, the respondent pointed out that the applicant had not provided a personal affidavit in support of her application for judicial review in violation of subsection 10(2) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22. The applicant explained that she had not been able to find a notary in Lebanon that

could administer oaths. The application was therefore accompanied by an affidavit from a lawyer practicing in Quebec.

Perfecting Application for Leave	**Mise en état de la demande d'autorisation**
10 (2) The applicant shall serve on every respondent who has filed and served a notice of appearance, a record containing the following, on consecutively numbered pages, and in the following order	**10** (2) Le demandeur signifie à chacun des défendeurs qui a déposé et signifié un avis de comparution un dossier composé des pièces suivantes, disposées dans l'ordre suivant sur des pages numérotées consécutivement :
(a) the application for leave,	a) la demande d'autorisation,
(b) the decision or order, if any, in respect of which the application is made,	b) la décision, l'ordonnance ou la mesure, s'il y a lieu, visée par la demande,
(c) the written reasons given by the tribunal, or the notice under paragraph 9(2)(b), as the case may be,	c) les motifs écrits donnés par le tribunal administratif ou l'avis prévu à l'alinéa 9(2)(b), selon le cas,
(d) one or more supporting affidavits verifying the facts relied on by the applicant in support of the application, and	d) un ou plusieurs affidavits établissant les faits invoqués à l'appui de sa demande,
(e) a memorandum of argument which shall set out concise written submissions of the facts and law relied upon by the applicant for the relief proposed should leave be granted,	e) un mémoire énonçant succinctement les faits et les règles de droit invoqués par le demandeur à l'appui du redressement envisagé au cas où l'autorisation serait accordée,
and file it, together with proof of service.	et le dépose avec la preuve de la signification.

[9] This Court has previously been called upon to address this issue, and the Court notes that *Fatima v Canada (Citizenship and Immigration)*, 2017 FC 1086 [*Fatima*], cited by the respondent, involved the same counsel as the one representing the applicant. At paragraph 5 of

Fatima, the Honourable Mr. Justice Martineau determined that the applicant's failure to file an affidavit was of vital importance:

> [5] First, no affidavit establishing the facts reported in support of her application for judicial review was filed by the applicant in accordance with subsection 10(2) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22. The affidavit dated July 27, 2017, from a lawyer who works at the former law firm that represented the applicant is insufficient. Since the application for leave was granted by the Court on September 14, 2017, no motion has been brought forth by the applicant or her former counsel to replace the lawyer's defective affidavit with an affidavit by the applicant. This is a fatal flaw (see for example *Metodieva v Canada (Minister of Employment and Immigration)* (1991), 132 NR 38, 28 ACWS (3d) 326 (FCA); *Dhillon v Canada (Citizenship and Immigration)*, 2009 FC 614 at paras 4–10; and case law cited in those decisions). The Court therefore has no other alternative than to summarily dismiss this application for judicial review.

[10] The Court shares this opinion.

[11] In light of this finding, it is not necessary for the Court to conduct a detailed analysis of the reasonableness of the officer's decision. Nevertheless, the Court points out that the vague or contradictory evidence provided by the applicant and highlighted by the officer were such that the finding that the applicant lacked credibility was reasonable.

V. Conclusion

[12] For the reasons set out above, the application for judicial review is dismissed.

JUDGMENT in IMM-6001-18

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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