

Federal Court



Cour fédérale

Date: 20191121

Docket: IMM-2318-19

Citation: 2019 FC 1479

Toronto, Ontario, November 21, 2019

PRESENT: Madam Justice Simpson

BETWEEN:

**HINA TAQI
KISA ZEHRA (A.K.A. KISA ZEHA)
SANA ZEHRA
SYED MUHAMMAD ALI MURTAZA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench in Toronto, Ontario on November 20, 2019)

I. Proceeding

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board dated March 18, 2019 [the Decision], in which the Panel Member [the Member] denied the Pakistani Applicants' claim for refugee protection on

the basis that they lacked credibility and did not possess profiles that placed them at a forward-looking risk in Pakistan [the Decision]. This application was brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

[2] The Applicants are members of a Shia Muslim family. They are the Principal Applicant, who is a 45-year-old woman, and three of her children who are two adult daughters and a 10-year-old son. The Applicants all relied on the narrative in the Principal Applicant's Basis of Claim form and on her evidence.

[3] Their claim was based on persecution caused by the activities of two family members whom they allege were prominent figures in the Shia community. The first is the Principal Applicant's son, Hasan Mujtaba [Hasan]. He recited the *Nauha Khawani* in public. It is a religious poem paying tribute to Shia martyrs. Hasan applied for refugee protection in Canada with the Applicants. His claim was heard with theirs and accepted. The second is the Principal Applicant's former husband, whose name is Taqi. He is alleged to be a prominent Shia community worker who organized large religious congregations.

[4] The RAD upheld the RPD's negative credibility findings and the Applicants suggest that these findings tainted the balance of the Decision. However, in my view, the RAD separately considered whether the Applicants are at risk. The reasonableness of the RAD's conclusion that the Applicants are not at risk is the determinative issue. In this regard, the Applicants submit that the RAD should have assessed the Applicants' risk as members of Hasan's family (i.e., as a social group).

[5] In my view, the RAD did assess the Applicants' forward-looking risk as members of Hasan's family although the words "social group" were not used. The RAD found that prominent members of the Shia community were at risk and that Hasan had the required profile. But since it is reasonable to conclude that he will remain in Canada having been granted refugee status, he will not be part of the Applicants' family in Pakistan. The RPD also concluded, and the RAD agreed, that Taqi's activities did not make him a prominent community member since there was no evidence that he was experiencing ongoing persecution even though he continued to live in Pakistan. Further, since he will not live as part of the Applicants' family on their return, his actions did not pose a risk.

[6] Finally, there was no evidence that any of the Applicants have a prominent profile or that they will be targeted on their return by reason of their Shia faith or by reason of Hasan's activities before he left Pakistan.

II. Conclusion

[7] In these circumstances, it is my view that the decision was reasonable. The application for judicial review will be dismissed.

III. Certification

[8] No question was posed for certification for appeal.

JUDGMENT in IMM-2318-19

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

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2318-19

STYLE OF CAUSE: HINA TAQI, KISA ZEHRA (A.K.A. KISA ZEHA),
SANA ZEHRA, SYED MUHAMMAD ALI MURTAZA v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 20, 2019

JUDGMENT AND REASONS: SIMPSON J.

DATED: NOVEMBER 21, 2019

APPEARANCES:

Robert Gertler FOR THE APPLICANTS

Prathima Prashad FOR THE RESPONDENT

SOLICITORS OF RECORD:

Robert Gertler FOR THE APPLICANTS
Barrister and Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT