Federal Court  Cour fédérale

Date: 20210223

Docket: IMM-7757-19

Citation: 2021 FC 170

Toronto, Ontario, February 23, 2021

PRESENT: Mr. Justice A.D. Little

BETWEEN:

NANCY ABDELRAZEK ABDELMOEEN ZIDAN
ROWAYDA DIAA IBRAHIM SABRY
SABER ALGAZZAR
DARIEN DIAA IBRAHIM SABRY SABER ELGAZAR

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision of the Refugee Appeal Division of the Immigration and Refugee Board (the "RAD"). The RAD confirmed a decision of the Refugee Protection Division (the "RPD") that the Applicants are neither Convention refugees nor persons

in need of protection pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the "IRPA").

[2] For the reasons below, the application is dismissed.

I. Background and Events Leading to this Application

[3] The applicants are citizens of Egypt, from Cairo. The principal applicant, Ms Zidan, is the mother of the other two applicants, Rowayda and Darien, who are minors. Ms Zidan was their designated representative before the RPD and RAD. She also is the mother of an older son, Ezzeldin, who is in Canada but is not an applicant before this Court.

[4] While in Egypt, Ms Zidan and her late husband were active members of the Freedom and Justice Party, a political party formed in 2011 after the events in Egypt sometimes referred to as the January 25 Revolution. The party had close ties to the Muslim Brotherhood. That party supported the successful candidacy of Mohammed Morsi as President of Egypt. A military coup forced Mr Morsi from power in July 2013.

[5] In July 2014, police detained Ms Zidan's husband, Diaa Ibrahim Sabry, and their son Ezzeldin (then 11 years old) as they were leaving mosque on the first day of Ramadan. The police detained Ezzeldin for a day. The police detained Mr Sabry for a week, until he was released on bail. He then went into hiding. An Egyptian court tried and sentenced him *in absentia* to a year of forced labour and a fine of 20,000 Egyptian pounds.

[6] Meanwhile, Ms Zidan and the children moved in with her mother in Cairo. They had to move around to remain safe while the children attended school. Mr Sabry visited them once or twice a month, when he felt it was safe to do so. Sadly, Mr Sabry died in December 2017 from a medical condition.

[7] Ms Zidan and the children arrived in Canada on January 29, 2018. They all claimed protection under s. 96 and subs. 97(1) of the IRPA on the basis of the family's political activities and ties to the Freedom and Justice Party. They fear the authorities in Egypt because they supported that Party and participated in peaceful marches and sit-ins to protest the coup.

[8] The RPD heard all of the claims on March 14, 2019. It rendered an oral decision at the end of the hearing. The RPD concluded that Ezzeldin was a Convention refugee. The RPD rejected the applicants' claims for refugee protection on the basis that there was insufficient objective evidence to support their claim.

[9] The applicants appealed to the RAD. The RAD denied the applicants' request to submit new evidence and their request for an oral hearing. The RAD also confirmed the RPD's decision on the merits of their refugee claim.

[10] Therefore, the overall result was a split decision: Ezzeldin's claim was accepted while the applicants' claims were not.

[11] On this application for judicial review, Ms Zidan and her other two children ask the Court to set aside the RAD's decision and remit it back to the RAD for redetermination. The applicants raised issues of procedural fairness related to the RAD's alleged failure to carry out its proper role as an appellate decision-maker, its refusal to accept the proposed new evidence and its refusal to order an oral hearing. The applicants also submitted that the RAD's decision was unreasonable because it was not justified on the facts in the record. Specifically, they alleged that the RAD failed to engage and grapple meaningfully with the central issue on their appeal, which was the objective evidence to support their claim as Convention refugees. The applicants maintain that the RAD did not properly consider certain documentary evidence concerning the treatment (including arrest and detention) of suspected members or supporters of the Muslim Brotherhood by Egyptian authorities.

II. Preliminary Issue – New Evidence on this Application

[12] When the applicants requested leave to apply for judicial review under s. 72 of the IRPA, Ms Zidan provided an affidavit that contained some new evidence. The respondent objected. The preliminary question is whether that evidence is admissible on this application.

[13] Ms Zidan's evidence concerned inquiries made by police when Ms Zidan's brother-in-law tried to sell her late husband's car. The police asked Ms Zidan's brother-in-law to tell Mr Sabry to present himself to them. Ms Zidan's brother-in-law informed them that Mr Sabry was deceased. In addition, Ms Zidan advised that the police came to "our place" in Egypt and questioned the neighbours about her late husband and the applicants.

[14] The applicants submitted that this evidence must be admitted on this judicial review application as it shows a breach of natural justice, citing *Bernard v Canada (Revenue Agency)*, 2015 FCA 263, at para 25. The respondent countered that the evidence does not fall within any of the exceptions for new evidence in *Sharma v Canada (Attorney General)*, 2018 FCA 48, at para 8.

[15] The general rule is that on a judicial review application, the Court must decide whether the decision-maker's decision was reasonable on the evidence that was before that decision-maker: *Sharma*, at para 7. Evidence that was not before the decision-maker and that goes to the merits of the matter is not admissible on an application for judicial review in this Court: *Delios v Canada (Attorney General)*, 2015 FCA 117, at para 42; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22, at para 19.

[16] There are exceptions. One exception admits evidence of a breach of procedural fairness, a breach of natural justice, an improper purpose or fraud: *Bernard*, at para 25; *Association of Universities and Colleges*, at para 20(b).

[17] I agree with the respondent that the exception in *Bernard* does not apply. The proposed new evidence seeks to support or corroborate the applicants' position on the merits and is not admissible.

[18] During oral argument, the applicants also referred to an October 2020 document apparently in the IRB's most recent National Documentation Package for Egypt, to support and corroborate

the applicant's evidence at the RPD hearing about the persecution of people associated with the Freedom and Justice Party and their families. The applicants again relied upon *Bernard* to argue that such evidence is admissible on the ground of natural justice.

[19] The applicants did not file a motion to admit the document as fresh evidence on this application, nor was the October 2020 document provided to the Court before or during the oral argument – it was merely mentioned, which provoked a prompt and proper objection by the respondent's counsel. The admission of the document is not before the Court and I will not rule on it.

III. The Standard of Review on this Application

[20] The parties both submitted that the standard of review for procedural fairness is correctness. I agree: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69, [2019] 1 FCR 121 [*CPR*], esp. at para 49 and 54; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196, at para 35. The Court's review of procedural fairness involves no margin of appreciation or deference. The Court asks whether the procedure was fair having regard to all of the circumstances, focusing on the nature of the substantive rights involved and the consequences for the individual(s) affected: *CPR*, at para 54; *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817.

[21] Both parties also correctly submitted that the standard of review of the substance of the RAD's decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at para 23. In conducting a reasonableness review, a court considers the outcome of

the administrative decision in light of its underlying rationale, in order to ensure that the decision as a whole is transparent, intelligible and justified: *Vavilov*, at para 15. The focus of reasonableness review is on the decision made by the decision maker, including both the reasoning process (i.e. the rationale) that led to the decision and the outcome: *Vavilov*, at paras 83, 86; *Delta Air Lines Inc. v. Lukács*, 2018 SCC 2, [2018] 1 SCR 6, at para 12.

[22] The starting point is the reasons provided by the decision maker: *Vavilov*, at para 84. The reviewing court must read the reasons holistically and contextually, and in conjunction with the record that was before the decision-maker: *Canada Post Corp. v Canadian Union of Postal Workers*, 2019 SCC 67, at para 31; *Vavilov*, at paras 91-96, 97, and 103.

[23] When reviewing for reasonableness, the court asks whether the decision bears the hallmarks of reasonableness (i.e., justification, transparency and intelligibility) and whether the decision is justified in relation to the relevant factual and legal constraints that bear on the decision: *Vavilov*, at para 99. To intervene, the reviewing court must be satisfied that there are "sufficiently serious shortcomings" in the decision such that it does not exhibit sufficient justification, intelligibility and transparency. Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep". The problem must be sufficiently central or significant to render the decision unreasonable: *Vavilov*, at para 100.

[24] The reviewing court does not determine how it would have resolved an issue on the evidence, nor does it reassess or reweigh the evidence on the merits: *Vavilov*, at paras 75, 83 and

125-126; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339, at paras 59, 61 and 64.

[25] *Vavilov* also held that the decision must be responsive to those affected by it, particularly if the impact of the decision on the individual's rights and interests is severe: at paras 95-96 and 133.

[26] The onus to demonstrate that the decision is unreasonable is on the applicant: *Vavilov*, at paras 75 and 100.

IV. Analysis

A. *Procedural Fairness*

[27] As noted, the applicants raised issues of procedural fairness related to the RAD's alleged failure to carry out its proper role as an appellate decision-maker, its refusal to accept the proposed new evidence and its refusal to order an oral hearing. In the result, I do not agree with the applicants' submissions. I will address each point in turn.

[28] First, the RAD understood its role on appeal as set out in *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93, [2016] 4 FCR 157. At paragraph 18 of its reasons, the RAD stated that it reviews decisions of the RPD on a standard of correctness after conducting an independent assessment of the evidence before it. It noted an exception to this rule if the RPD

enjoys a meaningful advantage in assessing and weighing the oral testimony heard, which in particular cases attract deference: *Huruglica*, at paras 70-72, 78, 98 and 103.

[29] The applicants submitted that the RAD did not apply the correctness standard and did not perform its own independent analysis of the evidence. However, the RAD expressly stated that it would apply the correctness standard and perform its own analysis and, reading its reasons, I am satisfied the RAD did both. For example, at paragraph 21 the RAD stated that following its "own review of the record", the testimony of Ms Zidan and each of the arguments of the applicants, it found that the RPD "did not err in its finding that the [applicants] did not establish their claims." The RAD demonstrated attention to the record by summarizing and listing the proposed new evidence and by summarizing findings of the RPD on different issues using the hearing transcript: at paras 10, 23, 25 and 31-32. In its conclusion at paragraph 41, the RAD again stated that following its "own analysis", it agreed with the RPD that the applicants had not established that their fear of the Egyptian authorities was well-founded as the evidence did not objectively demonstrate that the authorities would harm or target them and that their claims were not made out.

[30] The applicants submitted that the RAD improperly adopted the RPD's distinction between Ezzeldin's claim for protection and the claim of the applicants. However, the RAD clearly distinguished the claims based on the facts. The RAD created a chart comparing the claims based on the RPD's findings (at para 31). The RAD concluded that the determinative differences between the claims was that Ezzeldin was "known to the Egyptian authorities, who detained him and have records about him, and that he continues to be politically active": at para 32. The facts established

a nexus between Ezzeldin's subjective fear and the objective well-foundedness of that fear, as required by subs. 97(1) – the facts led to the conclusion that Ezzeldin would face more than a mere possibility of persecution were he to return to Egypt.

[31] On the second procedural fairness issue raised by the applicants, I see no error in the RAD's consideration of the proposed new evidence and its decision not to admit the new documents offered on appeal. Proposed new evidence before the RAD must meet both the express statutory requirements in IRPA subs. 110(4) and the factors set out in *Raza* (credibility, relevance, newness and materiality): *Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385 at paras 13–15; *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96, 2016 4 FCR 230, at paras 38–49, 64; *Dugarte de Lopez v Canada (Citizenship and Immigration)*, 2020 FC 707, at paras 17-19. The RAD has no discretion to deviate from the strict criteria in the statute: *Singh*, at paras 34-35 and 63.

[32] As the RAD noted in its reasons, the applicants did not prepare a list of the proposed new documents on appeal. The RAD prepared its own list. It reviewed and categorized the proposed new documents, finding that most of them pre-dated the decision of the RPD. One document, an affidavit from an Egyptian lawyer, had no date and referred to events that occurred before the RPD's decision. The other proposed new evidence consisted of news articles. With one exception, all of the other documents also pre-dated the RPD decision and therefore could have been placed before the RPD. The RAD concluded that the remaining document, a news article about the imprisonment of a human rights lawyer in Egypt, was not relevant and therefore inadmissible.

[33] Subsection 110(4) of the IRPA refers to the possible admission of evidence that was "not reasonably available" when the RPD rejected the claim. The *Refugee Appeal Division Rules*, SOR/2012-257, require that the applicants provide full and detailed submissions regarding how any new documentary evidence meets the requirements of subs. 110(4) and how that evidence relates to the appellants: at subparagraph 3(3)(g)(iii).

[34] The applicants' explanation for the proposed introduction of new documents on their RAD appeal was merely that they were "not available" at the time of the RPD hearing: see appeal submissions to the RAD, at para 15. In that bare submission, the then-appellants did not provide the necessary full and detailed submissions on the admissibility and relevance of the proposed new evidence: *Pajarillo v Canada (Citizenship and Immigration)*, 2019 FC 1654, at para 18. It is difficult to fault the RAD for failing to detail and analyze the applicants' position on why the proposed new evidence met the statutory test and the *Raza* factors, in the absence of substantive submissions of that position made to the RAD as the RAD's Rules required.

[35] Considering the RAD's analysis, the requirements in IRPA subs. 110(4) and the Federal Court of Appeal's decision in *Singh*, the RAD did not err by refusing to admit the new evidence.

[36] The third issue concerns the applicants' request for an oral hearing. The test is set out in IRPA subs. 110(6), which provides:

> **(6)** The Refugee Appeal Division may hold a hearing if, in its opinion, there is documentary evidence referred to in subsection (3)
>
> > **(a)** that raises a serious issue with respect to the credibility of the person who is the subject of the appeal;

> **(b)** that is central to the decision with respect to the refugee protection claim; and
>
> **(c)** that, if accepted, would justify allowing or rejecting the refugee protection claim.

[37] The RAD concluded that no hearing was required, because there were no new documents to consider. I have already concluded that the RAD correctly did not admit the new documents on appeal; in addition, there was no issue concerning Ms Zidan's credibility that may have warranted an oral hearing: see subs. 110(3) and paragraph 110(6)(*a*) of the IRPA.

[38] The applicants submitted on this application that an oral hearing was needed to allow the applicants to make their own specific and vigorous submissions on why the objective country condition evidence supported their refugee claim. However, none of the statute, the RAD Rules or procedural fairness principles required an oral hearing to permit the applicants to advance every important argument they identified on appeal to the RAD.

[39] In the circumstances, the RAD did not err in declining to order an oral hearing.

[40] In the course of their written submissions, the applicants also contended that the RAD erred in failing to consider the best interests of the child ("BIOC"). I am unable to agree. Ms Zidan was the representative of the minor applicants. As the RAD recognized (at paras 37-38), the *Chairperson Guideline 3: Child Refugee Claimants: Procedural and Evidentiary Issues* requires that the BIOC be taken into account in a procedural, not a substantive manner, as explained in *Douillard v Canada (Citizenship and Immigration)*, 2019 FC 390, at paras 24-30; see also *Kim v Canada (Citizenship and Immigration)*, 2010 FC 149, at paras 7-9.

[41] The applicants also raised very understandable concerns at the RPD hearing when they received the RPD's oral decision, and again before the RAD and before this Court, about the impact on their family of the "split" decision granting only Ezzeldin's claim for protection. I observe, as the respondent's counsel did, that the IRPA includes provisions other than s. 96 and subs. 97(1) under which the BIOC and family unification may be considered, such as an application for relief on humanitarian and compassionate grounds under IRPA subs. 25(1): see *Douillard* and *Kim*, cited above and *Akinfolajimi v Canada (Citizenship and Immigration)*, 2018 FC 722, at paras 5, 30, and 32-33.

[42] I therefore conclude that the RAD provided the applicants with procedural fairness.

B. ***Was the RAD's Decision Unreasonable?***

[43] Recognition as a Convention refugee under IRPA s. 96 is based on a fear of persecution based on a Convention ground: race, religion, nationality, social group or political opinion. The bipartite test to establish fear of persecution under s. 96 requires that a claimant subjectively fear persecution and that their fear be well-founded in an objective sense. On the latter, there must be a valid basis for the fear: *Canada (Attorney General) v Ward*, [1993] 2 SCR 689, at p. 723.

[44] To show an objectively well-founded fear, a claimant must establish, on a balance of probabilities, that there is a "reasonable chance," a "reasonable possibility," or a "serious possibility" of persecution based on a Convention ground: *Tapambwa v Canada (Citizenship and Immigration)*, 2019 FCA 34 at para 4; *Németh v. Canada (Justice)*, 2010 SCC 56, [2010] 3 SCR 281, at para 98; *Adjei v Canada (Minister of Employment & Immigration)*, [1989] 2 FC 680 at p.

683 (para 8); *Fodor v Canada (Citizenship and Immigration)*, 2020 FC 218, at para 18. While a claimant must establish their case on a balance of probabilities, the claimant does not have to establish that the feared persecution itself will in fact occur, or would be more likely than not: *Tapambwa*, at para 4; *Németh*, at para 98.

[45] One way a claimant may show a fear of persecution is through evidence of the treatment of members of a group to which the claimant belongs (i.e. "similarly situated" persons) in their country of origin: *Salibian v Canada (Minister of Employment and Immigration)*, [1990] 3 FC 250 (CA), at paras 17-19; *Vangor v Canada (Citizenship and Immigration)*, 2019 FC 866, at paras 12-13; *Fodor*, at para 19 and the other recent cases cited there.

[46] The applicants submitted that the RAD failed to address the "abundant evidence" of fear in the objective sense because government authorities in Egypt were detaining persons similarly situated to them, such as political activists and their families. The applicants also submitted that the RAD's decision was unreasonable because they could not understand the RAD's reasoning on their central argument on the appeal. They submitted that they provided 14 paragraphs in their written argument to the RAD setting out their position on the objective evidence of Egyptian authorities detaining suspected members and supporters of the Muslim Brotherhood. Given the "voluminous evidence in the articles" submitted to the RPD, the applicants contend that the RAD was obligated to elaborate and provide "comprehensive reasons" for its finding that the applicants failed to demonstrate a well-founded objective basis for their fears.

[47] The applicants further submitted that as a matter of law, the RAD was required to mention and analyse evidence that contradicted its overall conclusion. On this argument, the RAD committed a reviewable error because it concluded that the applicants failed to demonstrate an objective fear, yet failed to analyse the evidence that contradicted its conclusion.

[48] The applicants emphasized paragraph 29 of the RAD's reasons, which they characterize as sparse and unsatisfactory given the importance of the decision to them. At paragraph 29, the RAD stated:

> I have reviewed all the documentary evidence referenced by the [applicants] and do not find that the [applicants] have met their burden of establishing a link between the documentary evidence and their specific circumstances.

[49] In isolation, the reasoning in paragraph 29 of the RAD's reasons is conclusory. It lacks reasoning on why the applicants did not establish a link as stated. However, taking the RAD's reasons holistically and contextually, and with the record before it, a different understanding of the issue emerges. That broader perspective shows that the RAD's conclusion was reasonable under *Vavilov* principles and supported by the evidence.

[50] As noted, the RAD engaged in a correctness review of the RPD's decision and concluded that it agreed with the RPD's conclusions. The RAD first recognized, correctly, that the RPD accepted Ms Zidan's evidence of a subjective fear of persecution (at para 23).

[51] At paragraph 25 of its reasons, the RAD explained that the RPD found that the applicants did not establish their well-founded fear in an objective sense, because:

- when Ms. Zidan picked up her son from the police station in July 2014, there was no evidence that she was detained or questioned. She testified that she had not been detained by the authorities herself;

- the applicants lived in Cairo until they left for Canada in January 2018, a timeframe of over 3 ½ years, during which Ms Zidan testified that the authorities did not detain her;

- Ms Zidan testified that she was not aware of any other family members who were detained in relation to her late husband's detention or court case (i.e., when he was prosecuted);

- Ms Zidan's husband died in 2017, so the authorities would no longer have an interest in finding him. She testified that neither she nor her son was named in her husband's court case;

- Ms Zidan's political activities occurred in the past, before her husband's death, and there was not enough evidence to show that she continued her own political activities prior to fleeing Egypt.

The RAD extracted each of these points from its own review of the RPD's oral decision, with supporting footnotes to the transcript. Later in its reasons, the RAD stated that these points were "ample evidence that the Egyptian authorities do not have any interest in" the applicants (at paragraph 35).

[52] In paragraph 28 of its reasons, the RAD agreed with the applicants' submission that this Court had "clearly stated that targeting for past persecution is not required in order to establish risk for the purposes of [IRPA] section 96 and persecution can be established by examining the situation of similarly situated individuals." The RAD stated that this Court was "equally clear, however, that 'the applicant has a burden of establishing a link between general documentary evidence and the applicants' specific circumstances'", quoting *Balogh v Canada (Citizenship and Immigration)*, 2016 FC 426, at para 19. I note that this principle in *Balogh* has been followed by this Court in other recent cases: *Shina v Canada (Citizenship and Immigration)*, 2020 FC 940, at para 18; *Bozik v Canada (Citizenship and Immigration)*, 2019 FC 1469, at paras 12-15.

[53] It was after these statements in paragraph 28 that the RAD stated the conclusion challenged by the applicants, that they had not "met their burden of establishing a link between the documentary evidence and their specific circumstances": at paragraph 29.

[54] I turn therefore to the applicants' submissions about the evidence of a link based on documentary evidence. In written submissions and at the hearing of this application, the applicants' counsel submitted that certain articles before the RPD demonstrated that the applicants' fears of persecution were objectively well-founded. It is these articles that the applicants contend were not properly considered by the RAD. The applicants submitted that the articles indicated that at the time, Egyptian authorities were arresting hundreds of people based on their membership or perceived membership in the Muslim Brotherhood.

[55] At the hearing of this application, counsel referred specifically to an article that described certain defendants who were put on trial in Egypt. According to the article, in those trials, the state presented little evidence that the defendants did anything but spread news about a mass sit-in opposing the coup or organize and publicize peaceful opposition to Mr Morsi's removal as President. However, I note that these defendants were journalists or spokespersons for the Muslim Brotherhood or news outlets owned by it. Ms Zidan is not a journalist and was not a spokesperson for the Muslim Brotherhood. It was therefore open to the RPD to conclude that this evidence did not establish a link to her personal circumstances.

[56] During the hearing, the applicants also pointed to another report describing "enforced disappearances" effected by the Egyptian national security agency against perceived supporters of Mr Morsi and/or the Muslim Brotherhood. The disappeared persons were mostly males ranging from adults in their fifties to boys aged 14, and included "students, academics and other activists, peaceful critics and protesters, and family members of government critics". The applicants contended that Ms Zidan and her family fell into this category of persons, as they participated in peaceful protests and were family members of Ms Zidan's husband, who was detained and then tried and sentenced *in absentia* for his role in peacefully protesting against the military coup.

[57] In my view, neither the evidence in this particular article, nor the general evidence related to the arrest of members or perceived members of the Muslim Brotherhood, operated as a constraint on the RAD's decision on whether the applicants' claim was objectively well-founded, such that the RAD could not reasonably arrive at the conclusion it did: *Vavilov*, at para 99. Given the factual conclusions of the RPD with which the RAD agreed at paragraph 25, there was a

rational chain of reasoning that the applicants were not similarly situated to the persons in the articles. That chain of reasoning supported the absence of a link between the objective evidence in the articles and Ms Zidan's personal circumstances. The RAD/RPD's conclusions included the absence of any interest by government authorities in Ms Zidan and other members of her family while she resided in Cairo before January 2018, the absence of any trouble leaving Egypt, and Ms Zidan's limited political involvement since the arrest and detention of her husband and son in July 2014. The RAD reasonably concluded that the applicants had not proven a link between the documentary evidence and their specific circumstances.

[58] The RPD's decision also considered Ms Zidan's own evidence to support an objective basis for fear of persecution. As raised in the written submissions to the RAD, that evidence was that while in Egypt, she knew people who had been taken by the new government regime years after their family members were arrested or escaped from custody (RPD transcript, lines 644-46, 693-94). The RAD recognized that the RPD found that the objective basis for the applicants' fear was based in part on Ms Zidan's testimony (at para 19). The RAD found no error in the RPD's finding that the applicants had not established their claims (at para 21).

[59] I conclude that the RAD did not commit a reviewable error in relation to its analysis of the applicants' claims that their fears of persecution were objectively well-founded. While the RAD did not explain in paragraph 29 why it concluded that there was no link between the objective evidence in the articles and Ms Zidan's personal circumstances, the absence of a link was supported by the RAD's conclusions elsewhere in its reasons and upon a review of the record.

While *Vavilov* places an emphasis on justification by a decision-maker through reasons, the absence of a specific explanation on this issue does not constitute a reviewable error in this case.

[60] For these reasons, I conclude that the RAD's decision was reasonable in that it was justified, transparent and intelligible, specifically concerning its conclusions on whether the applicants' claims were objectively well-founded.

V. Conclusion

[61] The application is dismissed. Neither party identified a question for certification and I agree there is none. This is not a case for costs.

JUDGMENT in IMM-7757-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified under paragraph 74(*d*) of the *Immigration and Refugee Protection Act*.
3. There is no order as to costs.

"Andrew D. Little"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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