Federal Court  Cour fédérale

Date: 20210721

Docket: IMM-2033-20

Citation: 2021 FC 768

[ENGLISH TRANSLATION]

Ottawa, Ontario, July 21, 2021

PRESENT: The Honourable Madam Justice Walker

BETWEEN:

SAID TAIB

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Said Taib, the applicant, is seeking judicial review of a decision made by a senior immigration officer (officer), dated January 20, 2020, rejecting his Pre-Removal Risk Assessment (PRRA) application.

I. Background

[2] The applicant is a citizen of Morocco. Sponsored by his spouse, he became a permanent resident of Canada in June 2013.

[3] Subsequently, the applicant lost his permanent residence status on grounds of criminality. On July 6, 2017, the applicant was convicted of sexually assaulting his former spouse, a crime punishable by a maximum term of imprisonment of at least 10 years. He was sentenced to two years less a day in prison.

[4] On June 4, 2018, a report pursuant to subsection 44(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA) was issued, as the applicant was found to be inadmissible for serious criminality under paragraph 36(1)(a). The applicant has been under a deportation order since December 3, 2019.

[5] The applicant filed a PRRA application in which he invoked a fear in respect of a removal to Morocco based on the fact that he converted to Christianity in 2017 and committed apostasy from Islam.

[6] On January 20, 2020, the officer rejected the application. He concluded that the applicant did not discharge his burden of establishing that he would face a risk contemplated by sections 96 or 97 of the IRPA if he were to return to Morocco. The officer first noted that humanitarian and compassionate considerations cannot be taken into account in a PRRA and that the documents filed by the applicant providing evidence of humanitarian and compassionate

considerations would not be taken into account. The officer then went on to consider the applicant's evidence, including a letter from his pastor from La Clairière church in Canada, a letter from his friend and newspaper articles about Christians in Morocco. The officer also considered the objective documentation describing the situation of Moroccan Christians and, more specifically, the situation of Moroccans who converted to Christianity. The officer concluded that [TRANSLATION] "[w]hile the situation is not perfect" in Morocco, the evidence does not demonstrate that discrimination faced by individuals who have converted to Christianity amounts to persecution.

[7] The applicant is seeking judicial review of that decision.

II. Preliminary objection

[8] The respondent objects to the admissibility of the allegations in paragraphs 4 to 7 of the applicant's affidavit filed in support of his application for leave and for judicial review and in paragraphs 4 to 14 of the applicant's supplementary affidavit. The respondent primarily argues that these allegations are not limited to the facts as required by subsection 81(1) of the *Federal Courts Rules*, SOR/98-106, and that the paragraphs listed herein should be struck from the affidavits or that the Court should not take them into account in considering the applicant's application.

[9] An affidavit is limited to the facts of which the affiant has personal knowledge (Rule 81(1)). Having read both affidavits, I conclude that the paragraphs identified by the respondent are argumentative and founded on speculation rather than facts of which the applicant

has personal knowledge. It follows that these paragraphs are struck from the applicant's affidavits and that I am not taking them into account (*Canada (Attorney General) v Quadrini*, 2010 FCA 47 at para 18).

[10] Furthermore, the respondent submits that the allegation set out at paragraph 17 of the applicant's supplementary affidavit is a new allegation that was not before the officer as it is subsequent to the decision rendered on January 20, 2020. I agree, and this allegation is also struck from the supplementary affidavit.

III. Analysis

[11] The standard of review applicable to the review of a PRRA officer's decision, including his or her assessment of the evidence, is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 16-17 (*Vavilov*); *Mombeki v Canada (Citizenship and Immigration)*, 2020 FC 931 at para 8).

[12] Where the standard of reasonableness applies, the Court shall examine "the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome" (*Vavilov* at para 83) to determine whether the decision is "based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). If "the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility—and it is justified in relation to the relevant factual and legal constraints that bear on the decision", it is not for this Court to substitute its preferred outcome (*Vavilov* at para 99).

[13] The applicant's main argument is that the officer failed to examine all of the evidence available to him. He alleges that the officer only referred to the evidence supporting his finding while failing to refer to clear evidence to the contrary (*Guzman v Canada (Public Safety and Emergency Preparedness)*, 2012 FC 401 at para 24; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)* (1998), 157 FTR 35, 83 ACWS (3d) 264 at paras 14 to 17). Therefore, according to the applicant, the decision is neither transparent nor intelligible.

[14] I find that the applicant's argument regarding the officer's assessment of the evidence in the decision is without merit. The officer gave detailed and equitable consideration to the documentation submitted by the respondent and the objective and recent documentation.

[15] For example, the officer reproduced the following excerpts in the decision:

> [TRANSLATION]
>
> . . .
>
> If Moroccans who have converted to Christianity, estimated at between 2,000 and 6,000 according to a United States Department of State report, often have to live their faith discreetly, foreign Christians enjoy complete freedom and are protected by the authorities. Provided they do not proselytize, which is punishable by three years' imprisonment.
>
> . . .
>
> In this context where Moroccans of the Christian faith denounce the practices of certain agents of the State, [RM], a Moroccan born into a Muslim family and converted to the evangelical church, provides reassurance. ". . . I have some problems with my family, a few friends and some neighbours, but that's okay. It's normal because we are in a Muslim country. But I am discreet, because some people are aggressive".

> . . .
>
> [IN ENGLISH IN ORIGINAL]
>
> According to the Assabah newspaper, in July Christian citizens in the city of Nador received death threats, which the government investigated and reported were unfounded allegations. According to media reports, activists, community leaders, and Christian converts, Christian citizens face pressure from non-Christian family and friends to convert to Islam or renounce their Christian faith.…

[16] The applicant converted to Christianity in Canada, and he submits that he has no family left in Morocco. He alleges that converts to Christianity are sentenced to death once they arrive in Morocco and that state agents continue to arrest Christians and abuse them. The applicant also submits that Moroccans who converted to Christianity have been denied entrance to their churches and prohibited from gathering in large numbers.

[17] The officer considered the applicant's allegations. In the decision, he included references to the limitations on access to churches in Morocco, sometimes because religious authorities fear allegations of proselytizing. Among the excerpts quoted in the decision, the officer noted the problems faced by Moroccan converts to Christianity, which is the applicant's situation. The officer accepted the applicant's submissions that he has problems with his family and that [TRANSLATION] "some people are aggressive".

[18] The applicant's oral arguments before the Court focus on specific references in the objective documentation that reveal extreme experiences of some Moroccan Christians. I note first that some of these references were not before the Court. Furthermore, the officer is not required to rule on every document listed in the objective documentation. There is undoubtedly

contradictory evidence regarding the situation of non-Muslims in Morocco, but it is the officer's responsibility to determine, in an intelligible and equitable manner, the evidence that is most consistent with the reality in the country for the applicant. My review of the applicant's record and arguments before the Court does not reveal any error of logic or coherence in the officer's assessment of the applicant's fears. The applicant is essentially asking the Court to reweigh and reassess the evidence, which is not its role (*Vavilov* at para 125).

[19] The applicant criticizes the officer for concluding that the potential pressures that the applicant would face if he were to return to Morocco would not amount to persecution. He stresses that Moroccans who converted face intolerable persecution at three levels: state, society and family.

[20] The case law recognizes that discrimination can amount to persecution in some serious cases. The dividing line between persecution and discrimination or harassment is often difficult to establish (*Warner v Canada (Citizenship and Immigration*), 2011 FC 363 at para 7, citing numerous Court judgments). However, I agree with the recent description of this dividing line provided by Associate Chief Justice Gagné (*Noel v Canada (Citizenship and Immigration)*, 2018 FC 1062 at para 29):

> [29] However, for discrimination against a person to amount to persecution, it must be serious and occur with repetition, and must have consequences of a prejudicial nature for the person, such as when an individual is denied a core human right, such as the right to practice religion or to earn a livelihood (*Sefa v Canada (Citizenship and Immigration)*, 2010 FC 1190 at para 10).

[21] The officer considered the applicant's evidence and the objective documentation regarding Morocco and its Christian citizens. Considering the applicant's record and his fears about a possible return to Morocco following his conversion to Christianity in Canada, I am of the view that the officer could reasonably conclude that the discrimination alleged by the applicant does not amount to persecution.

IV. Conclusion

[22] In this case, the officer reviewed the evidence submitted by the applicant and the objective and recent documentation, and he dealt with the applicant's arguments in a detailed manner. The reasons provided by the officer reflect an "internally coherent and rational" chain of analysis. I am of the opinion that when the officer's reasons are read holistically and contextually, they bear the hallmarks of reasonableness (*Vavilov* at paras 97, 99). For all these reasons, the application is dismissed.

[23] The parties have not proposed any questions for certification, and I agree that there are none.

[24] Upon the consent of the parties, the respondent's name in the style of cause must be amended to read as follows: The Minister of Citizenship and Immigration, in accordance with subsection 4(1) of the IRPA.

JUDGMENT in IMM-2033-20

THE COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.

2. The name of the respondent in the style of cause is amended and will read as follows: The Minister of Citizenship and Immigration**.**

3. No question of general importance is certified.

"Elizabeth Walker"
Judge

Certified true translation
Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2033-20
STYLE OF CAUSE:	SAID TAIB v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
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