

Federal Court



Cour fédérale

Date: 20230210

Docket: IMM-9344-21

Citation: 2023 FC 195

Ottawa, Ontario, February 10, 2023

PRESENT: Madam Justice Walker

BETWEEN:

ASSEM AHMAD ABDELRAHMAN SALEM

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Mr. Salem, is a citizen of Egypt. He seeks the Court's review of a decision of the Refugee Appeal Division (RAD) dated November 19, 2021, confirming the refusal of his refugee claim by the Refugee Protection Division (RPD). The Applicant claimed refugee status in Canada based on his fear of persecution because of his father's perceived association with the Muslim Brotherhood. The RAD accepted the Applicant's core allegations

but determined that he had failed to establish he would be targeted by the Egyptian authorities should he return to the country.

[2] For the reasons that follow, the application is dismissed. The RAD conducted a detailed review of the RPD's decision, the Applicant's arguments, the facts of the case and the evidence adduced. The RAD's analysis of the evidence and its conclusion that the Applicant had not established the objective foundation for his subjective fear of persecution in Egypt is internally coherent, consistent with the pertinent jurisprudence and presents a clear chain of reasoning that is responsive to the framework established in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*).

I. Background

[3] As noted above, the Applicant's refugee claim is based on his association with his father who is a follower of the Sunni Islamic faith. His father was a muezzin at the mosque in Idris prior to the family's departure from Egypt for Libya in 1976 after the father was harassed and detained on suspicion of being a member of the Muslim Brotherhood. The Applicant believes the Egyptian authorities are still looking for his father as a perceived opponent of the current regime.

[4] The Applicant was born in Libya in 1984. He moved to Egypt in September 2015 and no longer has status in Libya.

[5] The events precipitating the Applicant's departure from Egypt began in 2017. While on his way to work on September 22, 2017, the bus on which he was travelling was stopped at a

security checkpoint in Alsalloum. The Applicant was removed from the bus, his identification was inspected and he was detained and questioned for six hours before being released. On November 5, 2017, the Applicant was again taken off a bus at a different checkpoint, this one in Siwa, and his identification and cell phone were inspected. He was told to send a copy of his identification to the nearest police station and was released.

[6] Approximately one week later, the Applicant was contacted by a police officer and asked why he had not provided a copy of his identification. On November 19, 2017, three officers in civilian clothes came to his work residence and searched the premises. The Applicant later discovered that the officers had stolen money and other items from the premises.

[7] The Applicant left Egypt in August 2019 and came to Canada.

[8] The RPD rejected the Applicant's refugee claim on June 3, 2021, finding that he had not provided sufficient credible evidence to establish that the Egyptian government is targeting him due to his father's alleged political opinion and suspected membership in the Muslim Brotherhood. The RPD stated that the Applicant had not provided a reasonable explanation for why the authorities remain interested in his father forty-five years after he left the country.

[9] The Applicant appealed the RPD's decision to the RAD.

II. Decision under review

[10] Unlike the RPD, the RAD found no reason to question the Applicant's overall credibility and accepted that he has a subjective fear of being persecuted in Egypt. However, the RAD confirmed the RPD's determination that the Appellant had failed to establish, on a balance of probabilities, he would be targeted because of his father's perceived association with the Muslim Brotherhood.

[11] The RAD findings were:

1. The fact that the Applicant was not harmed when he was detained and questioned on two occasions while travelling on public transport in 2017, when considered with the other circumstances surrounding his contact with the Egyptian authorities, strongly indicates that neither he nor his father are perceived as opponents of the current regime.
2. The other circumstances referred to by the RAD were: (a) the Applicant was stopped at existing security checkpoints; (b) he was asked for and provided his national identification card; (c) despite providing information about his family and father, he was simply questioned and released; (d) when his residence was searched, although he was robbed by the officers, there is no indication they had any particular interest in the Applicant's father or his perceived political activities.
3. The police made inquiries about his father in February 2015 but the Applicant's assertion that the government carried on with the investigation of his father after reviewing old Muslim Brotherhood files is speculative. The Applicant returned to Egypt in September 2015, entering the country with his passport. If the Applicant or his father were perceived by authorities to be opponents of the regime, the Applicant would have at least been questioned upon returning to Egypt.
4. There is no evidence in the record to indicate that the Egyptian authorities are looking for the Applicant. When the Applicant identified himself to authorities in September and November 2017, he was questioned and released.
5. The objective evidence for Egypt indicates that dissent of nearly any kind is not tolerated. Here, the Applicant testified that he was questioned about his father in September 2017. His national identification was examined in September and November 2017 and he was questioned later in November when the police went to his residence. The Applicant's father was not mentioned during either of the November encounters. If the authorities were interested in the Applicant because

of his father's alleged connection to the Muslim Brotherhood, it is unlikely he would have been released in September or November 2017 when his identity was known.

6. The Applicant has not established that he faces a personalized risk pursuant to subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). The evidence indicates that the buses on which he was travelling in 2017 were stopped at routine checkpoints. The fact he was removed and questioned does not establish that he was personally targeted. Similarly, the search of his work residence appears to have been connected with his failure to send a copy of his identification to the police.

[12] The RAD concluded that the Applicant's claim failed whether considered under section 96 or subsection 97(1) of the *IRPA* and dismissed the appeal.

III. Analysis

[13] The Applicant submits that the RAD erred in its assessment of his cumulative profile and analysis of the forward-looking risk he would face upon returning to Egypt. He states, and I agree, that the RAD's decision must be reviewed against the standard of reasonableness (*Vavilov* at paras 10, 23; *Zamor v Canada (Citizenship and Immigration)*, 2021 FC 672 at para 6). In conducting its review, the Court considers "the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome" 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 paras 83, 85).

[14] The Applicant argues that the evidence before the RAD established that he would be perceived as an opponent of the current regime in Egypt because his father was suspected of being a member of the Muslim Brotherhood and had to flee the country, and he himself was detained and interrogated in 2017. According to the Applicant, his assertion that the Egyptian

authorities perceive him as an opponent and would pursue him should he return must be presumed true unless there is evidence refuting it. He states that there is no such evidence and that, in fact, the evidence in the record supports his inference.

[15] Despite able arguments by the Applicant's counsel, I find no reviewable error in the RAD's decision.

[16] The Applicant's argument relies on the general principle set out in *Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302 (CA) but conflates findings of fact based on the presumption that a claimant's sworn testimony is true and the inferences a decision maker may draw from those facts. The Court recently addressed the scope of the presumption of truth in *Singh v Canada (Citizenship and Immigration)*, 2021 FC 1410:

[16] ...[T]his presumption does not apply to inferences, conclusions a witness may draw from the facts, or speculation regarding future events. Likewise, it does not apply to fears that are not sufficiently substantiated by the objective evidence: *Araya Atencio v Canada (Minister of Citizenship and Immigration)*, 2006 FC 571 at paras 8–10; *Hernandez v Canada (Minister of Employment and Immigration)* (1994), 79 FTR 198 at para 6; *Derbas v Canada (Solicitor General)*, [1993] FCJ No 829 (TD) at para 3.

[17] In this case, the RAD did not question the Applicant's credibility and accepted his narrative regarding the incidents in September and November, 2017. The panel acknowledged the Applicant's subjective fear of being persecuted in Egypt but found no objective basis for his fear of persecution. I find that the evidence reasonably supports the RAD's conclusion.

[18] The Applicant's father left Egypt in 1976. The RAD emphasized that the Applicant was stopped at existing security checkpoints where he produced his national identification card. During the September 2017 stop, he was asked about his family and father and released. In November 2017, the Applicant's national identification card was again examined and he was told to provide a copy of his identification and address to the local police. He failed to do so and three officers came to his residence later that month and searched his belongings. The Applicant was not arrested or charged during either routine security check and his father was not mentioned during the November 2017 encounters. Having examined the circumstances of the Applicant's interactions with the authorities, the RAD concluded that there was insufficient evidence to connect the 2017 incidents to his father's perceived political opinion. The RAD refused to infer from these incidents that the police were looking for the Applicant and that he faces a forward-looking risk of persecution in Egypt.

[19] The RAD also considered a statement from a neighbour that on February 20, 2015, the police came to their old neighbourhood in Egypt to inquire and collect information about the Applicant's father and family. The panel accepted that the police made inquiries about the father in early 2015 but contrasted those inquiries with the ease with which the Applicant was able to return openly to Egypt in September 2015. The RAD inferred from this sequence of events that, if either he or his father were perceived by the authorities to be opponents of the regime, the Applicant would have at least been questioned when he identified himself upon entry to Egypt.

[20] The Applicant argues that the RAD engaged in speculation in concluding that the Egyptian authorities were not looking for him and that the panel cannot speak for the agent of persecution. I do not agree.

[21] A refugee claimant bears the onus of establishing, on a balance of probabilities, their subjective fear of persecution and the objective basis for that fear (*George v Canada (Citizenship and Immigration)*, 2014 FC 535 at para 14). In the present case, the RAD found that the Applicant had a subjective fear of persecution should he return to Egypt. The issue for the panel was the existence of an objective basis for his subjective belief. The RAD accepted the central facts in the Applicant's claim. It did not ignore or misconstrue his evidence or testimony. The RAD was not required to adopt the Applicant's inferences of police interest and pursuit based on a suspicion that dated from 1976 and a series of random security events in 2017. In this regard, the Applicant has engaged in his own speculation or inference. I find that he has not established an error in the RAD's contrary inference: the Egyptian authorities were not looking for the Applicant based on perceived political opinion.

[22] Finally, the RAD considered the objective evidence regarding Egypt that shows dissent of nearly any kind is not tolerated by the Egyptian authorities. Individuals who express views opposing the regime risk arrest, detention and serious ill-treatment. However, the RAD noted that the Applicant has not been accused of any political activity or of supporting the Muslim Brotherhood and has not been subject to continued interrogation or detention. The Applicant has not alleged that he has expressed any political or other opinion that might bring him to the attention of the authorities. I find that the RAD committed no reviewable error in concluding that

there was insufficient evidence to establish that the Applicant is or will be perceived as an opponent of the current regime. The Applicant failed to establish a link between the general documentary evidence and his personal circumstances (*Chukwunyere v Canada (Citizenship and Immigration)*, 2021 FC 210 at para 14).

[23] In summary, I find that the evidence before the RAD supports its refusal to infer that the police were looking for the Applicant based on his relationship with his father and the incidents in 2017. The RAD intelligibly and comprehensively assessed the evidence and testimony and was not required to accept the Applicant's belief in the objective foundation for his subjective fear of persecution (*Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 25). Accordingly, this application for judicial review will be dismissed.

[24] No question for certification was proposed by the parties and none arises in this case.

JUDGMENT IN IMM-9344-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

"Elizabeth Walker"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9344-21

STYLE OF CAUSE: ASSEM AHMAD ABDELRAHMAN SALEM v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

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