

Federal Court



Cour fédérale

Date: 20230523

Docket: IMM-1706-22

Citation: 2023 FC 716

Ottawa, Ontario, May 23, 2023

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

VASIL KASABISHVILI AND NINO KASABISHVILI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Vasil Kasabishvili (“Mr. Kasabishvili”) and Nino Kasabishvili (“Ms. Kasabishvili”), are siblings and sought refugee protection in Canada because they fear persecution by a Georgian Member of Parliament (“MP”) and the Georgian government. While working as a police officer in Georgia, Mr. Kasabishvili attended at the scene of a fatal car crash where he interviewed family members of the deceased driver. Mr. Kasabishvili alleges that the family members told him that the deceased driver, who was the son of an MP, was detained earlier that day and that the MP used his influence to secure his son’s release. Mr. Kasabishvili

further alleges that this admission was captured by his body camera and that he was fired and threatened after he retained a copy of the body camera footage. Ms. Kasabishvili's refugee claim is based on the same underlying facts. She alleges that she was fired from her job and threatened because of her brother's involvement in this incident.

[2] On April 16, 2021, the Refugee Protection Division [RPD] dismissed the Applicants' claim, finding that their evidence lacked credibility and was insufficient to establish their allegations. The Applicants appealed to the RAD, which dismissed their appeal on January 28, 2022. This is a judicial review challenging the RAD's dismissal.

[3] The Applicants' asylum claim rests on the following assertions: i) that the MP's family admitted that the MP had used his influence to have his son released from detention; ii) that this admission was captured on Mr. Kasabishvili's body camera footage; and iii) because Mr. Kasabishvili made and retained a copy of the footage, he and his sister were fired and threatened by the government. The RPD and the RAD found that the transcript of the body camera footage did not accord with the Applicants' assertions. In other words, the transcript did not contain the admission that the Applicants say put them at risk from the MP and the government.

[4] I have reviewed the evidence and do not accept the Applicants' argument on judicial review that the RAD misconstrued this evidence. As both parties agree, I have to consider this issue on a reasonableness standard of review. I find the RAD's evaluation of this evidence and its impact on the Applicants' claim to be reasonable.

[5] As the Applicants acknowledged, this is a determinative issue given that it forms the central basis of the Applicants' asylum claim. I have considered the Applicants' other arguments with respect to the RAD's evaluation of the Certificate of Conviction, the Applicants' other corroborative evidence, and Mr. Kasabishvili's credibility. I do not find that the errors complained about with respect to these issues would impact the RAD's central determination regarding the basis of the asylum claim. Even if I were to find that the RAD made unreasonable findings on all of the other issues the Applicants raise, it could not change or even influence the RAD's ultimate determination about the nature of the Applicants' risk. Accordingly, I do not find it necessary to address the Applicants' other arguments.

[6] Based on the reasons below, I dismiss the application for judicial review.

II. Analysis

[7] Mr. Kasabishvili's narrative included with his refugee claim contains the following statement with respect to the contents of the body camera footage:

Right after the car accident, the older brother of... [the deceased] and his spouse showed on the site. It was me who interviewed the older... [brother of the deceased].... When... [the MP who is the father of the deceased] learned that his son had been detained, he used all his power and influence to release him.

[8] The Applicants claim this admission—that the MP, the father of the deceased, had used his influence to have his son released—put them at risk. This was the foundation of their claim.

[9] The Applicants provided a transcript of the body camera footage to the RPD. The relevant portion of the transcript states:

Applicant: On what basis was he released from the police custody?

Brother of deceased: We managed to get him released, and brought him home... It was not a problem for us at all. He broke the garage, and later fled home.

[10] The Applicants make no argument about the quality or completeness of the transcript. The Applicants acknowledge that the transcript does not accord with the assertions in Mr. Kasabishvili's refugee claim narrative. The Applicants argue that nonetheless the RAD should have interpreted the statement "It was not a problem for us at all" to mean that the father of the deceased used his influence as MP to have his son released from detention. I do not agree. The Applicants' version requires the RAD to read into the transcript many words that are simply not there. Given that the basis of the claim was that these very words in the body camera footage put the Applicants at risk, the words in the transcript matter. As noted by the RAD:

That the sole reason that [Mr. Kasabishvili] claims those parties seek to persecute him—his unearthing the MP's corrupt abuse of power in having his son released from police custody—has been significantly undermined throws into very serious doubt the foundation of [Mr. Kasabishvili's] entire claim.

The RAD's evaluation of the evidence and its impact on the Applicants' claim is reasonable.

[11] I see no basis to interfere with this evaluation. Neither party raised a question for certification and I agree none arises.

THIS COURT'S JUDGMENT is that:

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

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1706-22

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