

Federal Court



Cour fédérale

**Date: 20240129**

**Docket: IMM-8538-22**

**Citation: 2024 FC 144**

**Toronto, Ontario, January 29, 2024**

**PRESENT: The Honourable Mr. Justice Ahmed**

**BETWEEN:**

**SYED AZHAR HUSSAIN NAQVI**

**Applicant**

**and**

**MINISTER OF IMMIGRATION REFUGEES  
AND CITIZENSHIP CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**(Delivered Orally from the Bench by Videoconference on January 29, 2024)**

[1] The Applicant seeks judicial review of a decision of the Refugee Appeal Division (“RAD”) to exclude him from refugee protection for having committed a serious non-political crime outside of Canada pursuant to section 98 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”).

[2] The Applicant entered Canada in 2019 and filed a claim for refugee protection. The Minister intervened before the Refugee Protection Division (“RPD”), alleging the Applicant had committed a serious non-political crime in the United Arab Emirates (“UAE”). The RPD agreed with the Minister and excluded the Applicant from protection under section 98 of the *IRPA*.

[3] The RAD affirmed the RPD’s decision. The RAD found that the fact that the Applicant’s ex-wife was able to obtain divorce in Religious Court in the UAE indicated that his crime would be considered a serious offence in the UAE, and that the assault the Applicant committed against his wife would likely constitute assault causing bodily harm under Canada’s *Criminal Code*, RSC, 1985, c C-46. The RAD found that if convicted in Canada, the Applicant’s offence would likely not have resulted in a sentence in the high end of the 10-year sentencing range. But the RAD acknowledged several aggravating factors that showed the crime to be “serious,” including that it was intimate partner violence, that there were serious reasons to believe the Applicant had assaulted his wife on more than one occasion, and a commitment to not minimize intimate partner violence.

[4] The sole issue in this application is whether the RAD’s decision is reasonable. I find that it is. The Applicant’s submissions are meritless and a gross mischaracterization of the evidence, nor do they meaningfully challenge the underlying decision. Based on the totality of the evidence before the RPD and the RAD, including photographic evidence of the wounds incurred by the assault and the court verdict in the UAE (which included a confession from the Applicant that he beat his wife), the RAD’s decision is justified in relation to its legal and factual constraints (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65

(“*Vavilov*”) at paras 99-101). As per *Vavilov*, the Applicant fails to establish unreasonableness (at para 100).

[5] This is a disquieting matter. A wife was assaulted by her children’s father on numerous occasions, being left with injuries that required medical attention. She overcame high burdens to establish her rights in a foreign court loathe to recognize them. And while her physical injuries may have faded and she may have “won” in court, the trauma left by the time spent with her abuser may very well remain. Intimate partner violence fosters profound harm in the abused, and is most often inflicted upon women. This Court acknowledges her personally for having endured it.

[6] But there is more. In reference to the assault in January 2016, the Applicant’s submissions include that:

the bruise or mark that appeared on the skin is most likely not the result of grabbing but the result of the attempt by applicant’s wife to get her forearm free from the applicant’s grip causing the friction between the skin of forearm of the applicant’s wife and the hand of the applicant.

[7] This submission is made despite the RAD rightly being “appalled” by similar submissions, finding that “[t]hese callous arguments attempt to normalize, justify, and condone domestic violence, and I find that they are both concerning and inappropriate.”

[8] This Court cannot ignore intimate partner violence, which is profoundly unequal in its instantiation and chillingly destructive in its application. It is a by-product of a violent, misogynistic, and demeaning history.

[9] That returns us to the submission above. The abused's suffering is downplayed. The Applicant appears to blame her for his own actions. Protecting victims of this violence demands that courts reject arguments that seek to minimize this brutal crime, as the Applicant's submission does here. And so I reject it.

[10] This application for judicial review is dismissed. The Applicant fails to establish unreasonableness. No questions for certification were raised, and I agree that none arise.

**JUDGMENT in IMM-8538-22**

**THIS COURT'S JUDGMENT is that:**

1. This application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8538-22

**STYLE OF CAUSE:** SYED AZHAR HUSSAIN NAQVI v MINISTER OF  
IMMIGRATION REFUGEES AND CITIZENSHIP  
CANADA

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 29, 2024

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** JANUARY 29, 2024

**APPEARANCES:**

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