

Date: 20090611

Docket: IMM-5001-08

Citation: 2009 FC 617

Ottawa, Ontario, June 11, 2009

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**VRAM DNOYAN
ANAHIT GASPARYAN**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Introduction

[1] It is obvious that the evidence was not properly analyzed regarding the reasons for the applicants' fear within the context of country conditions.

II. Judicial procedure

[2] On September 22, 2008, the Refugee Protection Division of the Immigration and Refugee Board (Board) determined that the applicants were neither Convention refugees nor persons in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA).

[3] The Board determined that the applicants were not credible.

III. Facts

[4] The principal applicant, Mr. Vram Dnoyan, and his wife, Ms. Anahit Gasparyan, are citizens of Armenia of the Baha'i faith.

[5] In essence, the principal applicant alleges having been pursued by people involved in fraudulent real estate transactions who were said to be "protected" by the local police authorities.

[6] The applicants further allege that, as members of the Baha'i faith, they are persecuted in Armenia.

IV. Issues

[7] (1) Did the Board err by refusing to analyze testimonial evidence regarding the reasons for the applicants' fear?

(2) Did the Board err in mentioning credibility issues without explaining their substance?

V. Analysis

[8] The Board's decision is not supported by sufficient reasons. In fact, it is not sufficient for the panel to simply mention [TRANSLATION] "his clearly unbelievable, contradictory and even implausible . . . evidence" (Decision at para. 13), the fact that [TRANSLATION] "the applicants' testimony was very difficult and laborious" (Decision at para. 18), and that [TRANSLATION] "The applicants were at times evasive and confused. I noted several implausibilities, omissions, additions and contradictions during their testimony" (Decision at para. 20).

[9] The Board has a duty to give its reasons and explain its decision so that the applicants might understand the reasons for denying their claim. The Board's vague allegations with respect to their credibility should have been supported by specific examples taken directly from the evidence in a clear, unambiguous and precise way, ensuring that the country conditions are dealt with directly with specific reference to context. This therefore requires an assurance that excerpts are not quoted out of context but reflect the meaning as a whole.

VI. Conclusion

[10] This decision is not supported by sufficient reasons and the applicants have a right to know the reasons for the Board's negative finding. This lack of reasons taints the decision. Therefore, the Federal Court is giving the applicants an opportunity to be heard by a differently constituted panel.

JUDGMENT

THE COURT ORDERS that the application for judicial review be allowed and that the matter be referred to a differently constituted panel for redetermination.

“Michel M.J. Shore”

Judge

Certified true translation
Sebastian Desbarats, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5001-08

STYLE OF CAUSE: VRAM DNOYAN
ARNAHIT GASPARYAN
v. THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: June 4, 2009

**REASONS FOR JUDGMENT
AND JUDGMENT:** SHORE J.

DATED: June 11, 2009

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