

Federal Court		Cour fédérale
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Date: 20090922

**Dockets: IMM-5272-08
IMM-5273-08**

Citation: 2009 FC 947

Toronto, Ontario, September 22, 2009

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

MD IFTEKAR RANA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Applications concern a Pre-Removal Risk Assessment (PRRA) and a Humanitarian and Compassionate Assessment (H&C) with respect to a citizen of Bangladesh.

Because a risk factor exists with respect to the Applicant's prospective return to Bangladesh, both the PRRA analysis and the H&C analysis were performed by the same decision-maker. Therefore, because both decisions cite the same risk concerns, the decisions are inextricably linked. As a result, a reviewable error in the PRRA decision also constitutes a reviewable error in the H&C decision. I find that this is the case in the present Applications.

[2] Counsel for the Applicant produced an argument to the decision-maker that, should the Applicant return to Bangladesh he would face risk of kidnapping, ransom, bribery, and extortion (Tribunal Record, p. 46). This argument was supported by detailed evidence that postdates the Refugee Protection Division decision with respect to the Applicant; the evidence was presented by the Applicant in his affidavit with appendices (Tribunal Record, p. 48). There is no question that this evidence tendered by the Applicant is "new evidence" and the argument tendered with respect to this new evidence by Counsel for the Applicant is required to be considered by the decision-maker.

[3] While the PRRA decision specifically refers to Counsel for the Applicant's argument, it is devoid of consideration of the specifics of the argument presented. I find that this failure to consider the argument constitutes a reviewable error with respect to both the PRRA and H & C decisions.

ORDER

THIS COURT ORDERS that, with respect to both Applications for judicial review to which this order applies, I set aside the decisions under review and refer the matters back to a differently constituted panel for re-determination.

“Douglas R. Campbell”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE: MD IFTEKAR RANA v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 22, 2009

**REASONS FOR ORDER
AND ORDER:** CAMPBELL J.

DATED: September 22, 2009

APPEARANCES:

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