

Federal Court



Cour fédérale

Date: 20100910

Docket: IMM-5697-09

Citation: 2010 FC 902

[UNREVISED CERTIFIED TRANSLATION]

Ottawa, Ontario, September 10, 2010

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

**GEVORG AYRANJYAN
TEREZA AYRANJYAN**

Applicants

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This application for judicial review involves the legality of a decision by the Refugee Protection Division of the Immigration and Refugee Board (the panel) dated August 20, 2009, rejecting the refugee claim of the applicants, father and daughter, both Armenian nationals.

[2] There is no reason to intervene since the Court finds the panel's decision reasonable in all respects and the applicants' criticisms unfounded.

[3] The panel simply did not believe that the applicant was active in a human rights group and that he was persecuted in Armenia because of his political activities. This finding of fact was not seriously challenged today, and the errors identified by learned counsel for the applicants, if any, do not affect the panel's finding that the applicant is not a refugee or a person in need of protection.

[4] In short, the panel's finding of non-credibility was an available option in light of the testimony it heard and the documents in the record. The panel's reasoning is well articulated. The rejection of the applicant's refugee claim is also based on the evidence and is not unreasonable. The fact that the applicant provided different names for the so-called human rights group that he said he had been involved in, coupled with his inability at the hearing to provide contextual details about the group was determinative. In addition, the applicant hesitated when testifying and contradicted himself a number of times, which was confirmed by a review of the transcript.

[5] Moreover, the panel invited the applicant to submit after the hearing any material evidence about his involvement in the Helsinki Citizens Assembly, despite the fact that he had had at least three years to do so. In its decision, the panel clearly explained why it rejected the letter (Exhibit S-1) that the applicant subsequently provided:

The panel considered Exhibit S-1, submitted after the hearing, which is a three-line memorandum stating that Mr. Ayranjyan helped distribute the magazine of the Helsinki Citizens group, but the memorandum does not mention that Mr. Ayranjyan had problems because of the group or that he was a serious activist for it. Moreover, the photocopy could have been created on any computer. It is also surprising that Mr. Ayranjyan did not file that important evidence before the hearing, since the allegation that he is a member

of that group is the key element of his claim. He states that he had not known how important it was. That explanation is not credible, especially since he submitted many documents, meaning that he knew that it was important to corroborate his allegations. The panel therefore does not give any probative value to that document.

[6] The panel's explanations for not giving any weight to the letter in question are reasonable.

The panel also noted the complete lack of documentary evidence that the applicant was harassed by the police:

It is also important to note that the International Helsinki Federation for Human Rights report on file does not mention anywhere that people are targeted or persecuted by the Armenian state merely because they are members or activists of that organization. If that were the case, the panel would have expected the organization to be the first to expose that situation in its reports. However, there is no mention of it, which leads the panel to conclude that Mr. Ayranjyan has never had any problems because of his campaigning for that group.

[7] This finding also appears reasonable to me given that the applicant is a former boxer who is well known to his fellow citizens in Armenia.

[8] The panel also assigned little weight to the medical certificates (Exhibit S-3), which were also filed after the hearing. In particular, the panel noted that the applicant's native language is Armenian and Armenia's official language is Armenian, but the applicant's medical certificates were in Russian, which made them even more suspect in the circumstances.

[9] In his memorandum, the applicant alleges that, by rejecting the medical certificates, the panel used its specialized knowledge without notifying the applicant and giving him a chance to make representations (section 18, *Refugee Protection Division Rules*, SOR/2002-228), an argument

that his counsel did not pursue at the hearing before the Court. In any event, this argument also appears baseless to me. On the one hand, the panel did not use its particular specialized knowledge, but knowledge acquired in dealing with claims from former USSR countries, which was permitted in the circumstances. On the other hand, the panel's decision is based primarily on the applicant's lack of credibility. Even if the panel had accepted that the applicant was beaten, as stated in the medical certificates, it was still necessary to convince the panel that he had been beaten because of his political involvement, and the panel was not ready to believe the applicant on this point for the reasons set out above.

[10] With respect to the rejection of the daughter's refugee claim, the panel, in its decision, described her claim as based on her father's. The panel's finding is reasonable in this case and is also based on the evidence in the record. Both on her arrival in Canada and in her detailed narrative, the daughter alleged that she was assaulted and threatened by her ex-boyfriend, a bodyguard for an important public official, in retaliation for the applicant's involvement in a human rights group. The late argument by her counsel that the female applicant's fear was also based on her status as a woman in general appears to us to be specious in all respects, and the panel could properly ignore it given the numerous credibility problems already identified in its decision.

[11] This application for judicial review must therefore fail. This case does not raise a question of general importance.

JUDGMENT

THE COURT ORDERS AND ADJUDGES that the application for judicial review is dismissed.

No question is certified.

“Luc Martineau”

Judge

Certified true translation
Mary Jo Egan, LLB

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5697-09

STYLE OF CAUSE: **GEVORG AYRANJYAN**
TEREZA AYRANJYAN
v.
MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: September 7, 2010

REASONS FOR JUDGMENT: MARTINEAU J.

DATED: September 10, 2010

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