

Federal Court



Cour fédérale

Date: 20101110

Docket: IMM-2776-10

Citation: 2010 FC 1122

Ottawa, Ontario, November 10, 2010

PRESENT: The Honourable Justice Zinn

BETWEEN:

PIERRE BOULOS ZAZA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Mr. Zaza asks the Court to set aside an officer's decision denying his Pre-Removal Risk Assessment (PRRA) application. For the reasons that follow, his application is dismissed.

[2] The applicant is a 37 year-old citizen of Lebanon and is a Maronite Christian. He arrived in Canada on a visitor's visa on July 13, 2002, in order to attend World Youth Day. His application for an extension of his visitor's visa was denied and on April 2, 2003, he applied for refugee

protection. His refugee claim was denied and leave to appeal to this Court was denied. Mr. Zaza then submitted a PRRA application, which was denied on November 27, 2007. The applicant was granted leave to judicially review this first PRRA decision but the Court's intervention was not required as the respondent agreed to have the matter sent back for redetermination. Upon reconsideration by a different officer, the PRRA application was again denied, and this application is a review of that second PRRA decision.

[3] Mr. Zaza alleges that he is at risk in Lebanon on the basis that he is being targeted by Hezbollah, a militant terrorist group powerful in Lebanon. He says he is being persecuted by Hezbollah for being a Christian and because Hezbollah perceives him as a spy. He says that he was twice beaten by Hezbollah agents in April of 2002. In his PRRA application the applicant provided four letters in support of his story, each written in 2007, a number of years after his refugee hearing.

[4] The officer provided a lengthy decision laying out the reasons for rejecting the application after noting that he or she "very carefully" considered all of the evidence submitted.

[5] The officer reviewed the Refugee Protection Division's (RPD) findings, including the finding that elements of the applicant's claim were not credible and that there was insufficient evidence suggesting that he would be persecuted if he were returned to Lebanon. The officer noted that the applicant did not provide any submissions in his PRRA addressing the RPD's credibility concerns.

[6] The officer found that the applicant had “basically restated” the risk he presented to the RPD, and noted that the PRRA process is not an opportunity for the applicant to have his refugee claim reheard, but rather is intended to assess new risk developments. The officer acknowledged the submissions made by the applicant regarding his family and establishment in Canada, but noted that officers are not able to consider humanitarian and compassionate factors in PRRA applications.

[7] The officer reviewed each of the four letters presented by the applicant. With respect to the letter from Dr. Elie Chanin, the officer found that although the letter was written after the applicant’s refugee hearing, its contents would have been available prior to the hearing. The officer noted that no argument or explanation was offered addressing why the letter was not reasonably available at the RPD hearing, and ultimately concluded that the letter did not constitute new evidence and thus would not be considered.¹

[8] The officer gave little weight to letters from the applicant’s brother Joseph Zaza, his friend Michel Macdeci, and his co-worker Joseph Abdaem for a number of reasons: the letters were vague and unclear (the letters referred to “they” without further specification), could have been provided at the RPD hearing, lacked detail, were not accompanied by the envelopes they came in from Lebanon, and were not from independent, third party sources. The officer found that the letters did not provide sufficient objective evidence that the applicant was being “specifically targeted” by Hezbollah or would be tortured or executed in Lebanon if he were returned there given that the letters did not mention these risks or the risk that the applicant would be targeted as a perceived spy.

¹ Although not raised by the officer, there are obvious significant discrepancies in two letters purportedly provided to the applicant by Dr. Elie Chanin, reproduced at pages 39 and 40 of the Application Record. The letters are in different handwriting, offer different spellings of the doctor's name and bear different signatures.

[9] The officer noted that he or she considered documentary evidence regarding human rights in Lebanon, and that most weight would be given to current documentary evidence. The officer noted, among other things, that Lebanon was a parliamentary republic with diverse leadership, including a Maronite Christian President. The officer also acknowledged evidence that indicated Hezbollah maintained significant influence over parts of the country, that reported instances of violence relating to Hezbollah, and that summarized recent political developments in Lebanon.

[10] The officer found that it was clear from the evidence that human rights problems exist in Lebanon and acknowledged ongoing sporadic violence. Nonetheless, the officer found that “there is insufficient objective evidence before me to indicate that the Hezbollah, or any other groups or individuals would be interested in pursuing the applicant or in targeting him for harm if he were removed to Lebanon, several years after the applicant left that country in July 2002.” The officer also found that there was not sufficient objective evidence to support a conclusion that the applicant was on a Hezbollah target list or that he would be perceived as a spy if he were removed to Lebanon, or that the applicant would be of significant or serious adverse interest to Hezbollah.

[11] The applicant challenges the officer’s rejection of the letters he provided, alleging that the officer “engaged in a series of negative inferences, took into account irrelevant considerations in assessing the letters, and demanded corroborative evidence.” The applicant submits that there is no requirement that letters of support come only from independent sources, and relies on the decision in *Mata Diaz v. Canada (Minister of Citizenship and Immigration)*, 2010 FC 319, where Justice O’Keefe accepted letters from family members as evidence and found, at para. 37, that:

... it would seem to me that any letter written to support the applicant’s claim would be, by the Board’s reasoning, self-serving.

This cannot be the case. An applicant has to be able to establish their case.

[12] I accept the submissions of the respondent. The PRRA application is based on the same risks that formed the basis of the applicant's refugee claim. The only "new" evidence provided by the applicant was the four letters. The officer found that the letters could have and should have been provided at the time of the RPD hearing. The mere fact that the evidence is dated after the RPD decision does not mean that the evidence is "new" within the meaning of s. 113(a) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27. The officer's finding that three of the letters did not come from independent sources was merely an additional factor in his or her assessment of the evidence and is insufficient to undermine the entire decision.

[13] The applicant further submits that the officer applied the wrong legal test and failed to ask whether the Lebanese state can provide effective protection to people targeted by Hezbollah. The applicant makes various submissions regarding the inability of the Lebanese government to provide state protection from Hezbollah and the officer's "misapprehension" of the relevant legal test for state protection.

[14] The officer very clearly found that there was not sufficient evidence to support a conclusion that Hezbollah would be interested in the applicant. The issue of state protection was not canvassed by the officer, and indeed the officer acknowledged that Hezbollah still retained significant influence over parts of the country and that the government had failed to disarm Hezbollah. The officer reached the same conclusion as the RPD: that the applicant was not being pursued by Hezbollah. As a consequence, the question of state protection was irrelevant.

[15] Contrary to the applicant's submissions, the officer did not conclude that state protection would be available because of Lebanon's status as a parliamentary republic with a diverse leadership. This specific finding was one part of the officer's broader analysis of country conditions in Lebanon. There was no error in the officer's decision.

[16] There is nothing confusing or inadequate about the officer's reasons. The officer surveyed the documentation on country conditions in Lebanon and concluded that human rights problems existed and that Hezbollah maintained influence in Lebanon. These findings are not inconsistent with the officer's determination that Hezbollah was not pursuing the applicant. Absent a finding that the applicant was being pursued, as he alleged, there was no risk to the applicant in returning to Lebanon.

[17] This application is dismissed.

[18] Neither party proposed a question for certification.

JUDGMENT

THIS COURT'S JUDGMENT IS that:

1. This application is dismissed; and
2. No question is certified.

“Russel W. Zinn”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-2776-10

STYLE OF CAUSE: PIERRE BOULOS ZAZA v.
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: October 28, 2010

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

DATED: November 10, 2010

APPEARANCES:

Alain Tayeye FOR THE APPLICANT

Peter Nostbakken FOR THE RESPONDENT

SOLICITORS OF RECORD:

TAYEYE LAW OFFICE FOR THE APPLICANT

Barristers & Solicitors
Ottawa, Ontario

MYLES J. KIRVAN FOR THE RESPONDENT

Deputy Attorney General of Canada
Ottawa, Ontario