

Federal Court



Cour fédérale

Date: 20120402

Docket: IMM-634-11

Citation: 2012 FC 388

Ottawa, Ontario, April 2, 2012

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

EMIN DURUM

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Mr. Emin Durum applied for refugee protection in Canada based on his fear of persecution in his native Turkey because of his Alevi religion and Kurdish ethnicity. A panel of the Immigration and Refugee Board dismissed Mr. Durum's claim because it found his evidence inconsistent and incomplete.

[2] Mr. Durum maintains that the Board's findings were unjustified. He asks me to overturn the Board's decision and ask a different panel to reconsider his claim. However, I can find no grounds for quashing the Board's decision and must, therefore, dismiss this application for judicial review.

[3] The real issue is whether the Board's findings were unfair or unreasonable.

II. The Board's Decision

[4] The Board found that Mr. Durum had left out important information from his written narrative and could not corroborate his testimony with documentary evidence. In particular, Mr. Durum mentioned in his written narrative that the police had raided the Alevi Association in 2008 and detained him. However, in oral testimony, he said he was not detained.

[5] In his testimony, Mr. Durum said that he was a youth leader of the Alevi Cultural Association. In his written narrative, he made no mention of this role.

[6] Mr. Durum said that he attended the Nowruz celebration in 2008 and was detained and tortured by police because of it. However, contrary to what one would expect, there was no corroborating evidence of this event.

[7] Mr. Durum described a police raid in 2006 at which he was detained, tortured and injured. However, this incident was not mentioned in his written narrative. The same was the case for Mr. Durum's allegation that he had been detained and tortured in 2006.

[8] Mr. Durum mentioned several occasions on which he had been detained. However, he never mentioned that he was represented by a lawyer on those occasions, which is the usual practice in Turkey.

[9] The Board also noted that there was no documentary evidence before it confirming that Mr. Durum was either Alevi or a Kurd. In addition, while Mr. Durum contended that he was a conscientious objector to military service, there was no evidence to support that submission. Further, there was evidence before the Board showing that Mr. Durum could pay off his obligation to serve in the military.

III. Were the Board's findings unfair or unreasonable?

[10] Mr. Durum argues that the lawyer representing him before the Board was negligent, which resulted in unfair factual findings against him.

[11] In my view, there is no evidence that Mr. Durum's counsel was so incompetent that his hearing before the Board was unfair. The Board did ask Mr. Durum's counsel to narrow the scope of his questions; however, it did not conclude that the questions were irrelevant or suggest that counsel was incompetent. Nor is there any merit to Mr. Durum's suggestion that he was told by counsel that he could not amend his written narrative or that the presiding member questioned him aggressively. In fact, he did amend his written narrative. There was no evidence to support Mr. Durum's submission that the hearing was unfair.

[12] As for the reasonableness of the board's findings, I find that its conclusions accorded with the evidence, or the lack of evidence. Each of the Board's concerns, outlined above, was reflected in the record before it. In the circumstances, there is no basis for concluding that the Board's treatment of the evidence was unreasonable.

IV. Conclusion and Disposition

[13] I can find no basis for concluding that Mr. Durum was treated unfairly or that the Board's conclusions were unreasonable. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-634-11

STYLE OF CAUSE: EMIN DURUM v MCI

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: November 22, 2011

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: April 2, 2012

APPEARANCES:

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FOR THE APPLICANT
(ON HIS OWN BEHALF)

François Paradis

FOR THE RESPONDENT

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