Federal Court  Cour fédérale

Date: 20151119

Dockets: IMM-292-15
IMM-368-15

Citation: 2015 FC 1291

Ottawa, Ontario, November 19, 2015

PRESENT: The Honourable Mr. Justice Fothergill

Docket: IMM-292-15

BETWEEN:

NOOR DEIAN AZIMI

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Docket: IMM-368-15

AND BETWEEN:

NOOR DEIAN AZIMI

Applicant

and

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

SUPPLEMENTAL JUDGMENT AND REASONS

[1] On October 19, 2015, I dismissed two applications for judicial review brought by Noor Deian Azimi pursuant to s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA] (*Azimi v Canada (Minister of Citizenship and Immigration*), 2015 FC 1177 [*Azimi No. 1*]). The first application concerned the adverse decision of a senior immigration officer regarding Mr. Azimi's Pre-Removal Risk Assessment [PRRA]. The second application concerned the refusal of an enforcement officer with the Canada Border Services Agency to "cancel" Mr. Azimi's removal to Afghanistan.

[2] I declined to certify questions for appeal pursuant to subsection 74(d) of the IRPA. By letter dated October 22, 2015, Mr. Azimi sought to make additional submissions regarding the certification of questions for appeal. Although I heard initial submissions regarding this issue at the conclusion of the hearing on September 22, 2015, I nevertheless permitted both parties to make additional submissions following the issuance of my decision in *Azimi No. 1*.

[3] For the reasons that follow, I have concluded that my decision in *Azimi No. 1* does not transcend the interests of the immediate parties to the litigation and does not contemplate issues of broad significance or general application (*Kanthasamy v Canada (Minister of Citizenship and Immigration)*, 2014 FCA 113; *Liyanagamage v Canada (Minister of Citizenship and Immigration)* (1994), 176 NR 4).

[4] It is well established in the jurisprudence that the function of a PRRA officer is to assess risk allegations, not humanitarian and compassionate [H&C] considerations (*Azimi No. 1* at para 21). Mr. Azimi argued that the PRRA officer should have invoked s 25.1 of the IRPA to exempt him from the application of ss 112(3)(c) and 113 of the IRPA. Section 25.1 provides that the Minister may, on his own initiative, examine the circumstances concerning a foreign national who is inadmissible or who does not meet the requirements of the IRPA, and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of the IRPA, if the Minister is of the opinion that it is justified by H&C considerations. While s 25.1 may have received little attention in the jurisprudence, the provision is explicitly concerned with the Minister's exercise of discretion based on H&C considerations. The role of a PRRA officer, which is well-defined (*Eid v Canada (Minister of Citizenship and Immigration*) 2010 FC 369 at para 2), does not include the assessment of H&C considerations, and accordingly this issue does not give rise to a serious question of general importance.

[5] It is well established in the jurisprudence that an enforcement officer's authority to defer the execution of a valid removal order is very limited. An enforcement officer has no authority to make determinations pursuant to the United Nations *Convention Relating to the Status of Refugees* [the Convention], and his or her discretion is limited to determining when a removal order will be executed (*Azimi No. 1* at paras 28-29). Mr. Azimi sought to have an enforcement officer "cancel" his removal to Afghanistan because a change in the law of complicity cast doubt on a previous determination by the Refugee Protection Division [RPD] of the Immigration and Refugee Board that he is ineligible for refugee protection under the Convention. The role of an enforcement officer, which is well-defined (*Baron v Canada (Minister of Public Safety and*

Emergency Preparedness), 2009 FCA 81 at paras 49-51; *Shpati v Canada (Minister of Public Safety and Emergency Preparedness)*, 2011 FCA 286 at para 45), does not include revisiting prior determinations of the RPD, and accordingly this issue does not give rise to a serious question of general importance.

[6] Finally, Mr. Azimi maintains that a serious question of general importance arises from my conclusion in para 15 of *Azimi No. 1* that the assessment by an immigration officer of the limits of his or her jurisdiction is subject to review by this Court against the standard of reasonableness. I also noted that where a decision-maker engages in statutory interpretation, the range of reasonable outcomes may be narrow. In this case, the determinative issues are the nature and scope of the functions performed by a PRRA officer and an enforcement officer, not the applicable standard of judicial review. This issue would not be dispositive of an appeal, and it therefore does not give rise to a serious question of general importance.

[7] I therefore confirm my previous determination that no question should be certified for appeal in this case.

JUDGMENT

THIS COURT'S JUDGMENT is that the Court's previous determination that no question should be certified for appeal is confirmed.

"Simon Fothergill"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-292-15
STYLE OF CAUSE:	NOOR DEIAN AZIMI v MINISTER OF CITIZENSHIP AND IMMIGRATION
AND DOCKET:	IMM-368-15
STYLE OF CAUSE:	NOOR DEIAN AZIMI v MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	SEPTEMBER 22, 2015
REASONS FOR JUDGMENT AND JUDGMENT:	FOTHERGILL J.
DATED:	NOVEMBER 19, 2015

APPEARANCES:

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