

Federal Court



Cour fédérale

**Date: 20160607**

**Docket: IMM-2679-15**

**Citation: 2016 FC 631**

**Ottawa, Ontario, June 7, 2016**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**MEHMET SEFA VERIM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] In 2014, Mr Mehmet Sefa Verim sought refugee protection in Canada on the basis that he had experienced persecution in Turkey as an ethnic Kurd and an adherent to the Yezidi faith. He claimed that Turkish ultra-nationalists had raided his home, attacked his brother and mother, and stabbed him in a separate attack in 1999. In addition, he asserted that he had endured mistreatment at the hands of the Turkish police, including detentions, interrogations and

beatings. He fled Turkey and sought asylum in the United States. However, he abandoned his US claim and sought refugee protection in Canada instead.

[2] A panel of the Immigration and Refugee Board rejected Mr Verim's claim primarily for lack of credible evidence. The Board found that Mr Verim had omitted important details about the 1999 stabbing from his written narrative, and concluded that it probably did not occur. The Board also drew adverse inferences from the omission of other details from Mr Verim's narrative, finding that those details were likely added later to embellish his claim. Further, the Board was not persuaded by Mr Verim's explanation for the abandonment of his US asylum claim and it found that the events in Turkey pointed to discrimination rather than persecution. It concluded that there was no credible basis for Mr Verim's request for refugee protection in Canada, which meant that he could not appeal the Board's decision to the Refugee Appeal Division.

[3] Mr Verim maintains that the Board rendered an unreasonable decision to the extent that it made adverse credibility findings based on the omissions from his narrative and the circumstances surrounding his US asylum claim. He also contends that the Board failed to apply the proper definition of a refugee and unreasonably concluded that his claim lacked a credible basis. He asks me to quash the Board's decision and order another panel to reconsider his claim.

[4] I agree that the Board's conclusions were unreasonable and must, therefore, allow this application for judicial review. The sole issue is whether the Board's decision was unreasonable.

II. Was the Board's decision unreasonable?

[5] The Minister asserts that the Board applied the proper refugee definition, and rendered reasonable credibility findings. Therefore, according to the Minister, the Board's decision should not be overturned.

[6] I agree with the Minister that the Board applied the proper test. However, I disagree with the Minister's assertion that that the Board made reasonable credibility findings. Therefore, I must allow this application for judicial review.

[7] Mr Verim suggests that the Board applied the wrong test when it stated that he would not face persecution in Turkey. The proper question, he says, is whether he would be exposed to more than a mere possibility of persecution. I agree with that framing of the question, however, I do not find that the Board applied the wrong test. The Board concluded that Mr Verim would face no persecution in Turkey from ultra-nationalists. It follows, as a matter of logic, that he would not face more than a mere possibility of persecution. Similarly, when the Board found that the claimant would not be exposed to persecution with regards to his *sur place* claim, this was another articulation of the same conclusion. If the Board had stated that the claimant failed to establish that he would be persecuted, it would have erred by setting the bar too high – on that standard, the claimant could still face more than a mere possibility of persecution and his or her claim would have been wrongly rejected. I see no error in the Board's decision in this respect.

[8] While the Board applied the correct test, some of its credibility findings were unreasonable. In particular, it found that Mr Verim had failed to provide sufficient details in his written narrative, thereby casting doubt on the credibility of his assertions. In particular, the Board noted that Mr Verim had failed to mention that the police had refused to lay charges in relation to the 1999 stabbing and he had not given a complete description of his injuries from that attack. Mr Verim had amended his narrative to include those particulars, but the Board found that he had not adequately explained why they had been omitted in the first place. In my view, Mr Verim was simply providing additional details that elaborated on his claim. I see no basis for the Board's conclusion that the attack did not occur.

[9] Further, the Board noted that Mr Verim had not listed the specific questions police had put to him about his membership in the PKK when he was detained in 2014, and had not disclosed the number of individuals who had been arrested alongside him on that occasion. As a result, the Board made additional adverse credibility findings against Mr Verim. Again, these facts appear to me simply to be additional details added to Mr Verim's narrative. I see no basis for concluding that their omission undermined Mr Verim's credibility.

[10] The Board also found that Mr Verim's explanation for dropping his US asylum claim was not credible, and contradicted his subjective fear of persecution. However, the Board did not acknowledge that Mr Verim's US claim was actually found to be credible by US Homeland Security. The basis for the Board's finding that Mr Verim was forum shopping by abandoning his US claim in favour of his Canadian application is not borne out by the evidence.

[11] Finally, in light of the above, I find that the Board's conclusion that Mr Verim's claim had no credible basis was unreasonable. The Board accepted that Mr Verim was a Kurd who supported the Kurdish cause and that his activities came to the attention of the authorities. This was sufficient, in my view, taking into account the documentary evidence, for the Board to conclude that there was a credible basis for Mr Verim's claim. Its conclusion to the contrary was, therefore, unreasonable.

### III. Conclusion and Disposition

The Board made a number of adverse credibility findings against Mr Verim that were not supported by the evidence. Its conclusions do not represent a defensible outcome based on the facts and the law – they were unreasonable. Therefore, I must allow 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 allowed and the matter is returned to another panel of the Board for reconsideration.
2. No question of general importance is stated.

"James W. O'Reilly"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2679-15

**STYLE OF CAUSE:** MEHMET SEFA VERIM v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JANUARY 13, 2016

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

**DATED:** JUNE 7, 2016

**APPEARANCES:**

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