

Federal Court



Cour fédérale

Date: 20170123

Docket: IMM-1479-16

Citation: 2017 FC 81

Toronto, Ontario, January 23, 2017

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

ARBEN BRAHIMAJ

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Arben Brahimaj fled Albania in 2015. He claimed refugee protection in Canada alleging persecution based on his sexual orientation. A panel of the Immigration and Refugee Board dismissed Mr Brahimaj's claim due to a lack of credible evidence. The Board found that Mr Brahimaj had failed to prove his identity and that his account of his experiences in Albania

lacked credibility. The Board concluded that there was no credible basis for Mr Brahimaj's claim.

[2] Mr Brahimaj submits that the Board's findings were unreasonable because he provided the Board with acceptable evidence of his identity and sufficient proof to support his refugee claim. He asks me to quash the Board's decision, including its no-credible-basis finding, and order another panel of the Board to reconsider his claim.

[3] I can find no basis for overturning the Board's decision. In particular, the Board's conclusion that Mr Brahimaj had failed to prove his identity was not unreasonable on the evidence. That is a sufficient basis on which to dismiss this application for judicial review; I need not deal with the other grounds Mr Brahimaj raised.

II. The Board's Identity Finding

[4] The Board found that the documents Mr Brahimaj supplied failed to prove his identity. He provided the following:

- Two Birth Certificates obtained by his brother after Mr Brahimaj arrived in Canada. The documents did not contain any security features or photographs.
- An Education Certificate obtained by his brother after Mr Brahimaj arrived in Canada. It did not contain any security features or a photograph.
- A Military Booklet obtained by Mr Brahimaj's brother. It did not contain a photograph or any other security features.

- Two Residency Verifications that were filed after the hearing. They contained no specific dates of residency in Albania, but one indicated that Mr Brahimaj was still a resident months after he had arrived in Canada.

[5] In addition, Mr Brahimaj said he never obtained an Albania Identity Card, available since 2009, because he did not travel and he would have had to pick it up in person. Mr Brahimaj also explained that he had an Albanian passport that expired in 2012, but he no longer possessed it. At another point, he stated that he had never possessed an Albanian passport. He travelled to Canada on a false Italian passport, which he later destroyed.

[6] The Board was not satisfied that Mr Brahimaj had established his identity. It was also not persuaded by Mr Brahimaj's explanations for why he had no proper identity papers.

III. Was the Board's Conclusion on Identity Unreasonable?

[7] Mr Brahimaj contends that the Board engaged in a microscopic analysis of the identity evidence which led it to unreasonably conclude that his identity was in doubt.

[8] I disagree. While the Board did not conclude that any of the identity evidence was actually fraudulent, it was entitled to find that the documentation Mr Brahimaj provided was insufficient proof of his identity. The Board's conclusion was based on the weight of the evidence before it, and its conclusion is entitled to the Court's deference on judicial review.

[9] Similarly, Mr Brahimaj provided inconsistent and unpersuasive testimony regarding the lack of identity documents. The Board's conclusion that he had not provided an adequate explanation was not unreasonable on the evidence.

IV. Conclusion and Disposition

[10] The Board's finding that Mr Brahimaj failed to prove his identity was not unreasonable on the evidence. The same is true of the Board's conclusion that Mr Brahimaj's claim lacked a credible basis. 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 in IMM-1479-16

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed,
and no question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1479-16

STYLE OF CAUSE: ARBEN BRAHIMAJ v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 1, 2016

JUDGMENT AND REASONS: O'REILLY J.

DATED: JANUARY 23, 2017

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