

Federal Court



Cour fédérale

Date: 20191120

Docket: IMM-2122-19

Citation: 2019 FC 1471

Toronto, Ontario, November 20, 2019

PRESENT: Madam Justice Simpson

BETWEEN:

SAMIR ALIYEV

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench in Toronto, Ontario on November 19, 2019)

I. Proceeding

[1] This application is for judicial review of a decision of the Refugee Appeal Division [the RAD] of the Immigration and Refugee Board dated March 9, 2019, in which the Panel Member [the Member] denied the Applicant's refugee claim. He is a citizen of Azerbaijan. The denial was made on the basis that he lacked credibility and because he did not demonstrate that he was at risk due to his residual profile as a failed refugee claimant.

[2] The sole issue in this application is the reasonableness of the RAD's assessment of the Applicant's residual profile. This is so because the challenges to the RAD's negative credibility findings were withdrawn.

[3] The Applicant relied on one document which was an article dated July 20, 2018 in the Azeri Times [the Article]. It was accepted as new evidence by the RAD because it post-dated the Applicant's refugee hearing.

[4] The Article stated that 51 Azerbaijani citizens were deported from Germany and arrived at Baku Airport. On arrival, the flight was met by police from the organized crime branch of Azerbaijani law enforcement.

[5] The Article says that the majority of the deportees had made asylum claims in Germany and that all 51 deportees were detained at the Baku Airport. However, no information was provided in the Article about the reasons for the deportation of the balance of the deportees who had not made asylum claims. No information was provided in the Article about the purpose of the detentions or their duration and no information was provided in the Article about whether any of the deportees were arrested at the airport or imprisoned thereafter.

II. Conclusion

[6] The law is clear that detention on arrival without more is not persecutory. In this regard, see *Kuzu v. Canada (Citizenship and Immigration)*, 2018 FC 917. In these circumstances, the RAD's core conclusion that the Article did not assist the Applicant was reasonable.

[7] I have reached this determination even though the reasons the RAD gave for its conclusion were not compelling. For example, it was not of great significance that the Applicant might leave Canada voluntarily and not be deported. He was still likely on his return to be asked what the purpose of his visit to Canada had been and if he answered truthfully, he would have been identified as a failed refugee claimant. However, there was no evidence that this status placed him in need of protection, or at risk of persecution.

[8] For all these reasons the application will be dismissed.

III. Certification

[9] No question was posed for certification for appeal.

JUDGMENT in IMM-2122-19

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2122-19

STYLE OF CAUSE: SAMIR ALIYEV v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 19, 2019

JUDGMENT AND REASONS: SIMPSON J.

DATED: NOVEMBER 20, 2019

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