

Federal Court



Cour fédérale

Date: 20210603

Docket: IMM-2531-20

Citation: 2021 FC 534

Ottawa, Ontario, June 3, 2021

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

FERDI BRACAJ

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of a negative pre-removal risk assessment (PRRA) by a Senior Immigration Officer dated January 31, 2020.

[2] The Applicant is a national of Albania and is seeking refuge in Canada for fear of a blood feud arising from the killing of a member of another family by his brother. The Applicant initially entered Canada in January 2006 with a fraudulent passport, and then later returned in

April 2019 after residing for a number of years between Albania and Italy. The refugee claim submitted in 2006 was deemed abandoned during the foregoing period and a removal order was issued. Thereupon, the Applicant submitted a PRRA application.

[3] The Officer rejected the PRRA application and subsequently refused to reconsider the decision on March 27, 2020.

[4] This judicial review relates to the Officer's initial decision in regard to the appreciation of the evidence and failure to conduct an oral interview. Except in respect to the last issue, the applicable standard of review by this Court is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 77).

[5] The Applicant argues that the Officer committed errors in weighing and considering the evidence, made veiled credibility findings and erred by not holding an interview.

[6] It is however apparent, on the latter point, that the determinative issue of the claim pertains to insufficiency of evidence, not credibility and, in this regard, an oral hearing was not required as the Applicant did not meet the conjunctive factors set out in the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], s 167 (see also *Hare v Canada (Citizenship and Immigration)*, 2020 FC 763 at paras 20-21; *Cosgun v Canada (Citizenship and Immigration)*, 2010 FC 400 at para 32 [*Cosgun*]).

[7] The Officer rejected the PRRA application notably as the Applicant's own actions, in the subsequent years to the killing described by the Applicant, were not consistent with those who have a well-founded fear. There is no indication of evidence of a continuing blood feud. The actions of the Applicant on the basis of evidence was equally insufficient to demonstrate the intention, influence and motivation of the alleged agents of persecution to pursue the Applicant.

[8] Procedural fairness was equally not denied on the failure to conduct an oral interview as per section 113(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, per factors specified in section 167 of the IRPR. These regulations are based on a conjunctive test wherein all criteria must be satisfied to have the PRRA Officer conduct an oral hearing. See *Cosgun*, above, cited in *Ullah v Canada (Citizenship and Immigration)*, 2011 FC 221 at para 25:

Given the presence of the conjunctive word "and" between paragraphs (b) and (c) above, it is clear that the factors set forth in paragraphs 167(a), (b) and (c) are cumulative. ... The parties agree that if all three factors in section 167 were satisfied, a PRRA Officer would be obliged to hold a hearing and that if one of the factors set forth (b) or (c) is not satisfied then a hearing would not be required.

[9] With respect to the consideration of the evidence, the Court remarks that the Applicant's contention relates to the Officer's attribution of weight and preference of evidence in lieu of other in the assessment of the claim and making determinations grounded on that evidence, as well as based on inconsistencies and contradictions. This is an exercise, however, that the Officer can rightfully undertake; it is not required to accept the Applicant's explanation or evidence without fail (see *Karakaya v Canada (Citizenship and Immigration)*, 2014 FC 777 at para 18). The Officer is a specialized decision maker equipped to understand and evaluate the evidence, and draw conclusions thereof.

[10] Furthermore, the Officer is presumed to have considered all of the evidence before it (*Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ no 598 (CA)). The Applicant does not point to evidence or submissions that based on the subjective and objective evidence are in contradiction with the findings (*Basanti v Canada (Citizenship and Immigration)*, 2019 FC 1068 at para 24).

[11] The claim was incomplete and nondescript. The Court is satisfied that the reasons provided by the Officer are intelligible and transparent, and the impugned decision is equally justified and justifiable. For the aforementioned reasons, the Officer's decision is reasonable and the application for judicial review is dismissed.

JUDGMENT in IMM-2531-20

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

There is no serious question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2531-20

STYLE OF CAUSE: FERDI BRACAJ v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: MAY 26, 2021

JUDGMENT AND REASONS: SHORE J.

DATED: JUNE 3, 2021

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