Federal Court  Cour fédérale

Date: 20210817

Docket: IMM-4844-20

Citation: 2021 FC 845

Ottawa, Ontario, August 17, 2021

PRESENT: The Honourable Madam Justice Elliott

BETWEEN:

ABDELRAHMAN WAEL IKHDAIR

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Abdelrahman Wael Ikhdair, seeks judicial of an adverse Pre-Removal Risk Assessment (PRRA) made on March 31, 2020 by a Senior Immigration Officer ("the Decision"). The Applicant seeks to have the Decision set aside and sent back for re-determination. The Respondent seeks to have the application dismissed.

[2] For the reasons that follow, this application is dismissed.

II. **Relevant Facts**

[3] The Applicant is a Palestinian citizen who arrived in Canada in February 2015 as a permanent resident sponsored by his then wife. In October 2018, after pleading guilty, he was convicted of sexually assaulting a female child contrary to s.271 of the *Criminal Code,* RSC 1985 c C-46. He was subsequently found to be inadmissible to Canada for serious criminality pursuant to s.36 (1)(a) of the *Immigration and Refugee Protection Act,* SC 2001, c 27 [*IRPA*].

[4] The Applicant applied for a PRRA on June 27, 2019. Due to his inadmissibility, he was only eligible to have his risk assessed under s.97 of the *IRPA*.

III. **Decision Under Review**

[5] The Decision recognized that the Applicant was only eligible to be reviewed under s.97 because of his inadmissibility on the grounds of serious criminality in respect of a conviction in Canada punishable by a term of imprisonment of at least ten years pursuant to s.36(1)(a) of the *IRPA*.

[6] The Officer acknowledged the Applicant's expressed fear of reprisal for his work as an informant for the Israeli military. The Officer also noted the Applicant's concerns about leaving his pregnant girlfriend, but found that as a ground for relief, it fell outside the purview of a PRRA.

[7] The Officer found the Applicant was vague in establishing important elements of his claim, such as specific dates relevant to his claim or details about how he was able to identify his Israeli recruiters. The Officer also noted the Applicant had not established the type of information that was disclosed to the Israeli forces, the people he would spy on, or how he managed to successfully disclose information to Israeli military captains.

[8] Noting that the Applicant had not listed any siblings in his PRRA form, the Officer found the Applicant failed to establish the identity of the brother who notified him of the rumours that the Applicant was the informant whose information had resulted in his neighbour's arrest. The Decision also commented on the inconsistency that the Applicant was able to enter Canada using his permanent residence visa despite his claims that the Israeli military held onto his Canadian visa after he ceased his relationship with them, approximately 5 months before leaving for Canada.

[9] The Officer concluded that the Applicant had provided insufficient evidence of probative value to establish, on a balance of probabilities, that he faces a personalized, forward-looking risk. The Officer noted that the evidence provided regarding his risk in Palestine was largely generalized country conditions to which s.97 of the IRPA does not apply. As such the PRRA application was refused.

IV. **Issue and Standard of Review**

[10] The only issue is whether the Decision was reasonable.

[11] The Supreme Court in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] extensively reviewed the law of judicial review of administrative decisions. The Supreme Court confirmed that judicial review of an administrative decision is presumed to be on the standard of reasonableness subject to certain exceptions, none of which apply to these facts: *Vavilov* at para 23.

[12] The Supreme Court stated very clearly that when applying the reasonableness standard while conducting judicial review, a Court is to refrain from deciding the issue afresh. The Court is to consider only whether the Decision, including the rationale for it and the outcome to which it led, is unreasonable: *Vavilov* at para 83.

[13] The requirements of a reasonable decision were re-stated as possessing an internally coherent and rational chain of analysis […] that is justified in relation to the facts and law that constrain the decision-maker. Importantly, the reasonableness standard requires a reviewing court to defer to such a decision: *Vavilov* at para 85.

[14] The Supreme Court has also reminded us that a reviewing court must remember that the written reasons given by an administrative body are not to be assessed against a standard of perfection. If the reasons given for a decision do not include all the arguments, statutory provisions, jurisprudence or other details a reviewing judge would have preferred, that, on its own, is not a basis to set aside the decision. Nor is a reviewing court to expect an administrative decision maker to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion: *Vavilov* at paras 91 and 128.

V. **Analysis**

[15] In his submissions to the Officer the Applicant stressed that because he entered Canada as a permanent resident under a spousal sponsorship his risk had never been previously assessed and therefore, all evidence of risk submitted for consideration was ‘new’.

[16] The Applicant’s evidence was that at the age of 14 or 15 he met an Israeli man named Malik who got him a construction job in Tiberius, Israel. Malik said he was a captain in the Israeli intelligence and that the Applicant could make extra money by working as an informant. The Applicant alleges he worked as an informant from 2008 until 2015 doing surveillance.

[17] The specific, personalized risk the Applicant identified was that in 2014 he provided the Israelis with information about an upcoming attack. The attack was thwarted. One of the attackers, who had told the Applicant about the planned attack, was shot in the leg and arrested. After the Applicant was in Canada he says that he heard from his brother that the man who had been shot was accusing the Applicant of collaborating with Israel. For this reason, the Applicant fears for his life if returned to Palestine.

[18] The Applicant claims that the Officer failed to consider the numerous independent sources and the Applicant’s own personal recount regarding the treatment of suspected Israeli informants. *Vavilov* however, relying on *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, indicates that administrative decision-makers are presumed to have considered all the evidence before them and they are not

required to make explicit findings on each constituent element leading to the final conclusion: *Vavilov* at paras 91 and 128.

[19] A review of the record indicates that the bulk of the materials submitted to the Officer in support of the risk faced if the Applicant is returned to Palestine were general country condition documents, website articles and news stories detailing the social attitudes toward suspected informants, as well as the very real risk of torture and murder that suspected informants face if returned.

[20] As noted by the Officer, there are three problems with the evidence provided by the Applicant.

[21] One is that in his PRRA application the Applicant left the section for the declaration of family members completely blank. There was no indication that he had any siblings or other relatives. Yet, he alleged that his brother had advised him that the Palestinians found out he had been an Israeli informant. Clearly, this statement conflicts with his PRRA application and reasonably raised the Officer's suspicion as to the Applicant's credibility.

[22] The second problem is that the Applicant travelled to Canada using his permanent resident visa, but had alleged that the Israelis were holding his visa to force him to continue to inform for them. Again, this conflicting information reasonably raised the Officer's suspicion as to the Applicant's credibility.

[23] The third problem is that there is no evidence of personalized evidence of risk in the record. For example, there is no affidavit from the brother, or from any other person who might have knowledge of the story being spread that the Applicant was an informant.

[24] The general country condition documents, articles and websites do contain information about the persecution and harm that can befall informants. The generic documents attesting to the social attitudes and risk of torture and murder of suspected informants do not support the Applicant's story that he personally was an informant for the Israelis. When that is considered together with the problems identified by the Officer concerning the brother and the visa there is simply no reliable evidence to support the risk claimed by the Applicant.

[25] For the foregoing reasons, the application is dismissed.

[26] There is no serious question of general importance for certification.

JUDGMENT in IMM-4844-20

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.

2. There is no serious question of general importance for certification.

"E. Susan Elliott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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