

Federal Court



Cour fédérale

Date: 20220704

Docket: IMM-7092-21

Citation: 2022 FC 983

Ottawa, Ontario, July 4, 2022

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

**HESHAM MOHAMED BAYOUMY
HASSAN YOUSSEF**

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Hesham Mohamed Fathy Bayoumy Hassan Youssef, is a 58-year-old man and a citizen of Egypt. On March 7, 2018, he claimed refugee status in Canada on the basis of his physical disability and age.

[2] In order to be considered a convention refugee under section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 2, an applicant must demonstrate that they hold a well-

founded fear of being persecuted on the basis of their race, religion, nationality, membership in a particular social group, or because of their political opinion.

[3] The Refugee Protection Division [RPD] rejected the Applicant's claim on February 4, 2021. The RPD found that the Applicant lacked a subjective fear of persecution due to his failure to seek asylum in the United States of America [USA], where he resided for 18 years, and his decision to abandon a pending application for permanent residence in that country. The RPD also considered the discrimination faced by the Applicant in Egypt, but it found that even when considered cumulatively, there was no serious possibility of persecution in Egypt.

[4] The Applicant appealed the denial of his refugee claim to the Refugee Appeal Division [RAD]. By decision dated September 28, 2021 [Decision], the RAD confirmed the RPD's determination that there was no serious possibility of cumulative discrimination amounting to persecution facing the Applicant in Egypt. It found that the RPD had correctly considered the Applicant's treatment in Egypt and the circumstances of similarly situated persons.

[5] The Applicant seeks judicial review of the Decision. The Applicant submits that although the RAD acknowledged elements of past discrimination, no weight was given to how it informs the Applicant's present fear. According to the Applicant, this was unreasonable, especially given that the Applicant is older than when he left Egypt, and thus he has reason to fear that his employment prospects would only be worse. I disagree.

[6] The RAD reviewed the Applicant's employment history in detail and acknowledged the Applicant's fear that he would not be able to find work in Egypt due to the high level of unemployment, his age and his physical handicap. The RAD concluded that although it was likely the Applicant would face challenges in seeking employment that were not faced by others in Egypt, he possessed attributes to address these challenges, such as his education, language skills and his history of steady employment. The RAD also noted that the Applicant's physical handicap had not kept him from being employed, even in physically demanding positions, and he did not require special accommodations.

[7] The Applicant has not shown any error in the RAD's analysis. The Applicant is instead asking the Court to reweigh or re-evaluate the evidence that was before the RAD in order to come to a different conclusion. This is not the Court's role on judicial review.

[8] Under the reasonableness standard set out in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras 86, 99, the Court must consider "the existence of justification, transparency and intelligibility within the decision-making process" and "whether the decision falls within a range of possible, acceptable outcomes."

[9] I find that the RAD thoroughly and thoughtfully analyzed whether the Applicant would face cumulative discrimination in Egypt rising to the level of persecution. It also reasonably considered the Applicant's actions in the USA, or lack thereof, to be incompatible with a subjective fear.

[10] The RAD supplied clear, evidence-based and logical reasons justifying its conclusions that the Applicant's appeal should be dismissed and the decision of the RPD be confirmed.

[11] Being substantially in agreement with the Respondent's written submissions, which I adopt and make mine, I conclude that the application for judicial review should be dismissed.

[12] The parties have not proposed any question for certification and therefore none will be certified.

JUDGMENT IN IMM-7092-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

“Roger R. Lafrenière”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7092-21

STYLE OF CAUSE: HESHAM MOHAMED BAYOUMY HASSAN
YOUSSEF v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUÉBEC

DATE OF HEARING: JUNE 23, 2022

JUDGMENT AND REASONS: LAFRENIÈRE J.

DATED: JULY 4, 2022

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