

Date: 20071003

Docket: IMM-1147-07

Citation: 2007 FC 996

Ottawa, Ontario, October 3, 2007

Present: The Honourable Mr. Justice Simon Noël

BETWEEN:

FADI MOUSSALLY

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] In this application for judicial review, Mr. Fadi Moussally (the applicant) seeks an order setting aside the decision by P. Passaglia, a pre-removal risk assessment officer, dated March 1, 2007, refusing to grant an exemption under section 25 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA) on the basis of humanitarian and compassionate considerations.

I. Issue

[2] Is the officer's decision patently unreasonable?

[3] For the following reasons, the decision is not patently unreasonable. Accordingly, the application for judicial review will be dismissed.

II. Facts

[4] A citizen of Lebanon, the applicant came to Canada on July 13, 2002, on a temporary visa, to participate in World Youth Day in Toronto.

[5] On August 22, 2002, he claimed refugee protection in Montréal.

[6] On March 3, 2003, the War Crime Unit intervened at the Immigration and Refugee Board (IRB) to ask that the applicant be excluded under section F of the Geneva Convention.

[7] On October 26, 2004, the IRB denied the applicant's refugee claim but did not accept the request for exclusion. The application for leave and judicial review of that decision was dismissed by this Court on June 17, 2006.

[8] On November 10, 2005, the applicant filed an application for permanent residence based on humanitarian and compassionate considerations. This application was refused on July 10, 2006, based on the result of the risk assessment.

[9] On August 30, 2006, the applicant filed this application for judicial review.

III. Impugned decision

[10] After reviewing all the evidence in the file, the officer determined that the applicant had not discharged his burden of proving that he would face unusual, undeserved or disproportionate hardship if he had to leave Canada to apply for permanent residence.

IV. Analysis

Standard of review

[11] The applicant argues that the officer's decision is patently unreasonable. The respondent acknowledges that the appropriate standard of review is patent unreasonableness.

[12] After considering the entire record and hearing the submissions of counsel, I find that the officer's decision does not contain any errors requiring the intervention of this Court. I note, in particular, that the applicant contends that he has formed ties in Canada, but he has paid no income tax despite the fact that he had remunerative employment. Forming ties in Canada can be done in a

number of ways, and monetary contribution to the expenses of the state is certainly an important factor to consider.

[13] The applicant also argues that he was unaware that the Lebanese authorities require notification of any Lebanese citizen who is subject to removal so that authorization for the citizen's return to Lebanon can be obtained before he or she is allowed to leave Canada. He submits that the officer should have taken this information into account in his analysis. The applicant adds, at paragraph 23 of his memorandum and even in his affidavit at paragraph 37, that [TRANSLATION] "this information, which he did not know about before, was disclosed to him by the officer responsible for the enforcement of the applicant's removal, André Martel, when the applicant was informed of officer Paglia's refusal."

[14] These submissions are incorrect because officer Passaglia's decision is dated March 2, 2007, while the applicant had been informed of the modus operandi of the Lebanese authorities on December 4, 2006. In fact, according to the certified documents in the record, a report of an interview between the Canada Border Services Agency and the applicant states the following at page 134:

[TRANSLATION]

4-12-06 Subject came with a friend Georges KESSERWANI. Subject informed that I must make an application for his return to Lebanon. Next appointment scheduled for March 5, 2007, at 9:00 a.m.

[15] The application for judicial review is dismissed since the officer's decision does not contain any errors, certainly no patently unreasonable errors, that would justify the intervention of this Court.

[16] I asked counsel if they had any questions for certification; none were submitted.

JUDGMENT

THE COURT ORDERS AND ADJUDGES THAT:

- The application for judicial review is dismissed.
- No question will be certified.

“Simon Noël”

Judge

Certified true translation
Mary Jo Egan, LLB

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-1147-07

STYLE OF CAUSE: FADI MOUSSALLY and
MINISTER OF CITIZENSHIP AND
IMMIGRATION (MCI)

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: September 25, 2007

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** Mr. Justice Simon Noël

DATED: October 3, 2007

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