

Federal Court



Cour fédérale

**Date: 20090226**

**Docket: IMM-2857-08**

**Citation: 2009 FC 202**

**Toronto, Ontario, February 26, 2009**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**RAHMAT KHALIQI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Mr. Rahmat Khaliqi (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “Board”). In that decision dated June 2, 2008, the Board rejected the Applicant’s application to be found a Convention refugee or a person in need of protection.

[2] The Applicant is a 26 year old citizen of Afghanistan. He was born into an Islamic family, but said that he became disillusioned with Islam because it advocates the killing of non-believers in the name of religion.

[3] The Applicant alleged that he began to study Christianity while still living in Afghanistan, mainly at the house of a friend. In August 2000, he learned that a group of Taliban leaders told his father that he had converted to Christianity. The penalty for conversion would be death. The Applicant left his father's home. He later learned that his father and his studying companion, had been killed by the Taliban.

[4] In August 2000, the Applicant fled to Pakistan with his mother and his sister. He said that Pakistan was not a safe place for converts to Christianity nor for those who assist them.

[5] The Applicant stayed in Pakistan until November 21, 2006 when he left for Canada. Upon arrival, he claimed refugee status immediately.

[6] The Board found that the Applicant's conversion was one of convenience. It made negative credibility findings, following an assessment of the Applicant's evidence about his knowledge and practice of the Mormon faith, the denomination of Christianity adopted by the Applicant after his arrival in Canada. The Board found that if returned to Afghanistan the Applicant would not pursue Christianity in such a way that would signal to others that he was a convert to Christianity and thereby at risk of persecution, torture, risk to life or of cruel and unusual treatment or punishment,

pursuant to section 96 and 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[7] The Applicant argues that the Board committed a reviewable error by making erroneous findings of fact without regard to the evidence and if these errors had not been made, the Board may have reached a different conclusion. In particular, the Applicant challenges the manner in which the Board assessed his knowledge of the Christian denomination of Catholicism, his participation in the Mormon faith and knowledge of its practice, and his pursuit of Christian activities in Pakistan.

[8] The Minister of Citizenship and Immigration (the “Respondent”) submits that the Board’s findings were reasonably open to it and that there is no basis for judicial intervention.

[9] The Board’s decision is subject to review on the standard of reasonableness; see *Bielecki v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 442.

[10] Upon reviewing the material in the Certified Tribunal Record, including the transcript of the Applicant’s oral evidence before the Board, I am satisfied that the Board indeed drew reasonable conclusions. The Applicant did not demonstrate more than a superficial knowledge of the history of Christianity or indeed of the history and practice of the Mormon faith.

[11] Contrary to the submissions advanced by the Applicant during the hearing of this application for judicial review, the Board did not engage in assessing the strengths of his religious convictions as discussed by the Supreme Court of Canada in *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 551.

[12] In the result, I find no basis for judicial intervention and this application for judicial review is dismissed.

[13] Counsel for the Applicant proposed the following questions for certification:

Whether the Board has jurisdiction, in assessing the credibility of a claimant's stated religious belief, to probe or examine and test those beliefs against a pre-set religious orthodoxy of that religion chosen by the Board member, or does the Supreme Court of Canada ruling in *Syndicat Northcrest* fully apply to Refugee Protection Division hearings on this issue.

[14] Counsel for the Respondent opposes certification of these questions, or either of them, on the basis that they will not be dispositive of this application for judicial review. Further, he argues that these questions do not arise on the facts of this case.

[15] I agree with the arguments of the Respondent. Subsection 74(d) of the Act provides as follows:

d) an appeal to the Federal Court of Appeal may be made only if, in rendering judgment, the judge certifies that a serious question of general importance is involved and states the

d) le jugement consécutif au contrôle judiciaire n'est susceptible d'appel en Cour d'appel fédérale que si le juge certifie que l'affaire soulève une question grave de portée

question.

générale et énonce celle-ci.

[16] According to the decision in *Zagai v. Canada (Minister of Citizenship and Immigration)*, 36 Imm. L.R. (3d) 167, the threshold for certifying a question, which allows for an appeal to the Federal Court of Appeal, is whether there is a serious question of general importance that would be dispositive of an appeal. This requires that the “serious question” is one that has been raised and addressed in the decision below. That is not the situation here and no question will be certified.

[17] The application for judicial review is dismissed and no question will be certified.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** the application for judicial review is dismissed and no question will be certified.

“E. Heneghan”

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Judge

**SOLICITORS OF RECORD**

**DOCKET:** IMM-2857-08

**STYLE OF CAUSE:** RAHMAT KHALIQI v.  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, ON

**DATE OF HEARING:** January 29, 2009

**REASONS FOR JUDGMENT  
AND JUDGMENT:** HENEGHAN J.

**DATED:** February 26, 2009

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