

Federal Court



Cour fédérale

**Date: 20101020**

**Docket: IMM-854-10**

**Citation: 2010 FC 1026**

**Toronto, Ontario, October 20, 2010**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**HABIB ASSAF**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] The present Application concerns the Applicant, a citizen of Syria, who claims refugee protection under s.96 and s.97 of the *IRPA* from Islamic Jihad in Syria.

[2] The Applicant's PIF recounts the following central features of the claim: the Applicant is a Christian, the Applicant had conversations with his friend in Syria in which he described the benefits of Christian life; his friend decided to become a Christian; his friend's family discovered his friend's powerful attraction to Christianity and pressured him to reveal the Applicant's name

which he did; the friend cautioned the Applicant for the sake of his own safety that he should not try to contact him or communicate with him in any way because his family had ordered him to end his relationship with the Applicant; and the Applicant subsequently received threats and, shortly before coming to Canada, was attacked by persons identifying themselves as from Islamic Jihad who accused him of preaching Christianity and threatened that if he was seen again in Syria that they would kill him.

[3] In his oral testimony before the Refugee Protection Division (RPD) the Applicant confirmed that after leaving Syria he did not contact his friend as instructed (Tribunal Record, p. 248). With respect to this feature of the Applicant's claim the RPD made the following critical finding:

The claimant was asked who he fears in Syria giving rise to his claim for refugee protection. The claimant stated he fears the Islamic Jihad as his friend's brother supports the Islamic Jihad who also beat the claimant and that there is a possibility his life would be at risk should he be required to return to Syria. The claimant was asked whether he knows of his friend's current situation and whether his friend had converted to Christianity. The claimant indicated that he has had no further contact with his friend since he left Syria. The claimant's family does not know anything about the friend and the claimant does not know if he converted to Christianity. The panel does not find it credible that after 2 years since leaving Syria for Canada he would not be able to discern whether his friend converted to Christianity from the Muslim faith which would potentially cause problems for the claimant as there was the belief he was proselytizing. If the claimant's friend did not convert to Christianity and the claimant did not proselytize as believed by the Islamic Jihad, there is little reason to believe that his life would be at risk from the Islamic Jihad.

[Emphasis added]

(Decision, p. 2)

This implausibility finding with respect to the Applicant's conduct is a central feature of the RPD's rejection of the Applicant's claim and, in my opinion, constitutes a reviewable error. In the first place, according to the PIF, the perceived problematic conversion occurred prior to the Applicant leaving Syria, and, most importantly, on a perusal of the Record before the RPD I find that there is absolutely no evidentiary basis for the expectation created by the RPD that the Applicant should have contacted his friend in Syria after leaving Syria. Therefore, I find that the RPD's central implausibility finding is completely unsubstantiated. As a result, I find that the decision under review is unreasonable.

**ORDER**

**THIS COURT ORDERS that:**

Accordingly, the RPD's decision is set aside and the matter is referred back to a differently constituted panel for re-determination.

There is no question to certify.

"Douglas R. Campbell"

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-854-10

**STYLE OF CAUSE:** HABIB ASSAF v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** OCTOBER 20, 2010

**REASONS FOR ORDER:** CAMPBELL J.

**DATED:** OCTOBER 20, 2010

**APPEARANCES:**

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