

Federal Court



Cour fédérale

Date: 20121206

Docket: IMM-2580-12

Citation: 2012 FC 1433

Toronto, Ontario, December 6, 2012

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

**NAWAL MUNDER KHEDER ALCHARIC,
FANAR HATEM ZAKARNAH,
FADI HATEM ZAKARNAH,
DAWOOD HATEM ZAKARNAH
AND DIANA HATEM ZAKARNAH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The principal claimant, Mrs. Nawal Munder Kheder Alcharic [applicant] and her children are citizens of Jordan who sought refugee protection in Canada. On February 28, 2012, the Refugee Protection Division of the Immigration and Refugee Board [Board] dismissed their claim because the applicant lacks credibility and also because she has not rebutted the presumption of state protection.

[2] The applicant was born in Iraq where she attended university and worked as a teacher. She met her former husband after moving to Jordan. They married in 1994 and so the applicant obtained citizenship in Jordan. In 2000, the applicant's husband began working in Saudi Arabia. The applicant and their children eventually accompanied him and lived in Saudi Arabia as temporary residents. Their problems are said to have begun in 2008, when her husband's manager was replaced by a member of the Al-Onayzi tribe. The applicant described him as a religious extremist. She alleges that this man harassed and threatened her husband, demanding that he convert to Islam. She claims that the situation escalated on May 20, 2008 when a group of people broke into their home, assaulted her husband and shouted that the family had a false religion and must leave Saudi Arabia. The applicant claims they could not go to the Saudi police because the police would not protect foreigners, especially Christian foreigners. The applicant believes that she would not be safe in Jordan because the Al-Onayzi tribe lives there as well. She claims that, as a Christian, she has no protection. The applicant fled with the children to Canada and they arrived on August 23, 2008. Her husband could not leave Saudi Arabia because his employer had his passport. The applicant claims that she has lost contact with her husband and fears that he has been harmed. Be that as it may, since her coming into Canada, the applicant is now divorced from her husband.

[3] The applicants now seek judicial review of the Board's decision dismissing their claim for protection. It is not challenged that the standard of review is reasonableness: *Dunsmuir v New Brunswick*, 2008 SCC 9. On the whole, taking into account the totality of the evidence on record, in all regards, I find that the decision of the Board is justifiable, transparent and intelligible. Contrary to the allegations of the applicants, the Board's analysis for both credibility and state protection is not flawed. Accordingly, this application must be dismissed.

[4] The Board's findings with respect to credibility and absence of risk are well articulated and they are based on the evidence on record. It was not unreasonable for the Board to conclude that the applicant was not credible because her story included a number of implausibilities, while the testimony given by the applicant's brother was not credible or trustworthy, and the assertions of risk made by the applicant were not supported by the documentary evidence or contrary to the same. In particular, the applicant's brother testified that men had come looking for the applicant in Jordan, which the Board did not believe for a number of reasons. The Board noted that anyone looking for the applicant and her children "would know that they were not registered in Jordan and therefore they would know they were not there." This assertion is supported by the evidence. The applicant notably testified that she would have to register with the authorities upon return to Jordan and that her alleged persecutors would have access to the registry. Moreover, it was not unreasonable for the Board to consider that it was culturally inappropriate in Jordan for strangers to ask about the applicant's whereabouts. Thus, the Board determined that it was implausible that the men would have acted contrary to cultural norms, while it was not credible that the applicant's alleged persecutors would "so blatantly warn the claimants that they would be at risk." As a final observation on credibility, the Board also doubted why the applicant had divorced her husband. The applicant testified that she found it difficult to be asked about her husband when she accessed medical services and at school. The Board observed that Canada is known not to harass single mothers by asking questions about their husbands or partners. I do not find this assertion of the Board capricious or arbitrary.

[5] In order to be granted protection, claimants must also overcome the presumption that their home country is able to offer them protection: *Canada (Attorney General) v Ward*, [1993] 2

SCR 689. Therefore, the Board also considered whether state protection might reasonably have been forthcoming had the applicant returned to Jordan. In the case at bar, the applicant has never experienced harassment or discrimination, much less persecution, in Jordan. In particular, she has never had problems with the police. The applicant alleged that the Al-Onayzi tribe has substantial influence over the police force and that, as a woman without any tribal affiliation she has no one to rely on for protection. The Board determined that there was nothing in the documentary evidence to indicate that police protection in Jordan depends on tribal affiliation or that the Al-Onayzi tribe dominates the police. The Board stated that “Christianity is a recognized religion in Jordan and thus is under the protection of the Jordanian authorities.” The Board also noted one instance when the government intervened to resolve a tribal dispute. These findings or inferences are not unreasonable in the circumstances and again are supported by the evidence.

[6] As a result, the application for judicial review shall be dismissed. Counsel has not proposed a question of general importance and no question shall be certified by the Court.

JUDGMENT

THIS COURT'S JUDGMENT is that the application is this application is dismissed and no question is certified.

“Luc Martineau”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-2580-12

STYLE OF CAUSE: NAWAL MUNDER KHEDER ALCHARIC,
FANAR HATEM ZAKARNAH,
FADI HATEM ZAKARNAH,
DAWOOD HATEM ZAKARNAH
AND DIANA HATEM ZAKARNAH v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: December 5, 2012

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** MARTINEAU J.

DATED: December 6, 2012

APPEARANCES:

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