

Federal Court



Cour fédérale

Date: 20140616

Docket: IMM-88-14

Citation: 2014 FC 570

Vancouver, British Columbia, June 16, 2014

PRESENT: The Honourable Mr. Justice Rennie

BETWEEN:

RITE LUSHI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

ORDER AND REASONS

[1] This is an application for judicial review to set aside a decision of the Refugee Protection Division (RPD) of December 20, 2013. The applicant is an Albania national who fled Italy in March, 2012 for Canada. The basis of her claim is that she fears her former partner, with whom she lived in Italy. The RPD found that although there were several incidents of domestic violence, the applicant did not seek the protection of the Italian police prior to leaving for Canada. The RPD rejected her claim, noting that there was no evidence that the applicant's

former partner had made any efforts to contact her or her family, and with one exception, her friends, after she left Italy. The evidence before the Board was that the applicant did not know where her former partner was living and whether he was still in Florence, Italy.

[2] Counsel concedes, correctly in my view, that the RPD identified the correct legal test governing claims under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27; and *Lopez v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1156, 2006 F.C.J. 1452 at para. 20. The applicant contends, however, that the RPD's appreciation of the evidence was unreasonable, and inconsistent with the governing legal standard as expressed in *Lopez*, and more recently articulated, to the same effect in *Ndjizera v Canada (MCI)* 2013 FC 601, [2013] FCJ No 668.

[3] There was ample evidence before the RPD to support its finding that the applicant had not established a fear of harm, on an objective basis. As noted, there was no evidence that her ex partner had been looking for her. The onus was on the applicant to lead sufficient evidence which might support a finding in respect of the objective branch of the test, and there was little, other than conjecture based on past events. Nor can it be said that the RPD failed to assess the evidence in light of the context of the prevailing attitudes in Albania in respect of domestic violence and the stigma of leaving a relationship that was leading to marriage. Indeed, the RPD made specific note of the prevalence of domestic violence in Albania.

[4] There is therefore, no error in the decision below that would warrant intervention.

ORDER

THIS COURT ORDERS that the application for judicial review is dismissed. There is no question for certification.

"Donald J. Rennie"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-88-14

STYLE OF CAUSE: RITE LUSHI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: JUNE 16, 2014

ORDER AND REASONS: RENNIE J.

DATED: JUNE 16, 2014

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