

Federal Court



Cour fédérale

Date: 20140619

Docket: IMM-2355-13

Citation: 2014 FC 586

Ottawa, Ontario, June 19, 2014

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

**RESIT KARACAN
HAMIDE KARACAN
REHAMURAT CAHIT KARACAN
HARIKA AYTEN KARACAN**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of the decision of Lucinda Bruin, a member of the Refugee Protection Division of the Immigration and Refugee Protection Board [the Board], pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act]. The Board dismissed the Applicants' claim for refugee protection, concluding that they

were not convention refugees or persons in need of protection under sections 96 and 97 of the Act.

I. Issue

[2] The issue in this application is whether the Board's credibility findings are unreasonable.

II. Background

[3] The Applicants are a family of Turkish citizens of Arabic descent and the Alevi religion. They consist of Resit Karacan [the Principal Applicant or PA], his wife, Hamide Karacan [the Female Applicant], their son, Rehamurat Cahit Karacan [Rehamurat] and their daughter, Harika Ayten Karacan [Harika].

[4] According to the Applicants' Personal Information Form narrative [PIF] narrative, they suffered persecution as a result of their race and religion while living in Turkey. They detail several incidences of persecution in their PIF narrative as follows:

- The PA's father was taken into custody at the place of his business by the police on September 28, 2007. The next day, the Applicants found him dead at a local hospital. A doctor informed the Applicants that he had been taken to hospital after he died. The doctor would not be a witness to the circumstances surrounding the PA's father's death for fear of losing his job;
- Two of the Female Applicant's sisters left Turkey because they were persecuted;

- The PA was taken into custody, beaten and tortured by police six times, but could only recall the circumstances surrounding two occasions. These were described as follows:
 - In June, 2009, the PA was arrested with his friends while leaving church. He was beaten and detained overnight, and was warned not to attend the same church in the future; and
 - On October 15, 2009, the PA was arrested while leaving church. He was beaten and detained overnight.
- The PA was verbally abused by fundamentalists hundreds of time;
- The PA was physically assaulted by fundamentalists three times in 2008 and five times in 2009, typically when he was leaving church;
- The Female Applicant began attending church less frequently due to fear and was verbally abused by fundamentalists and the police; and
- At school, Harika and Rehamurat were verbally and physically abused by their teachers and physically abused by their classmates.

[5] Before the Board, the Applicants filed additional evidence, including the PA's and the Female Applicant's identification cards for an Alevi cultural association, a letter of support from a friend of the PA's, a prosecutor's report and a hospital report. These reports appear to have been written in 2008. In their testimony, the Applicants also described an incident on May 1, 2007, where the PA was taken to the police station.

[6] The Applicants arrived in Canada on February 15, 2010, and applied for refugee protection two days later. They had a hearing before the Board on October 24, 2012.

[7] The determinative issue for the Board was credibility. The Board found that the Applicants' testimony was vague and included numerous omissions and inconsistencies.

[8] The Board noted that when the PA was asked about the most recent police mistreatment he could recall, he stated that it occurred on May 1, 2007. This contradicts the PIF narrative, which describes specific incidents in June, 2009, and October 15, 2009. The PA made no mention of these incidents in his testimony, despite repeated questions by the Board. When asked about the 2009 incidents, the PA stated that he was unaware of them and suggested that he may have been confused. The Female Applicant testified that the PA might have been nervous or did not want to mention these incidences in front of his children. The Board did not accept these explanations.

[9] The Board also found that the Female Applicant's testimony was inconsistent with what was stated in the PIF narrative regarding the 2009 incidents. In the PIF narrative, it is stated that the PA was arrested and beaten in both instances. However, the Female Applicant testified that he was arrested on only one of these occasions.

[10] With regard to the incident on May 1, 2007, the PA was vague as to how the medical and police report corroborated his testimony. His description of this incident was also vague. He initially could not recall the year it occurred, and subsequently could not describe the events

which led to his arrest. Additionally, it is omitted from the PIF narrative. While the Board acknowledged that traumatic events can lead to memory loss, the Board did not accept that the extent of the PA's omissions were reasonably explainable.

[11] The Board noted that the PA did not mention the physical or verbal abuse perpetrated by fundamentalists, which is described in the PIF Narrative. Likewise, the PA testified to specific occasions where his children were verbally or physically abused at school, but these are not described in the PIF narrative and no corroborative evidence was provided.

[12] Despite acknowledging their Alevi cultural association membership cards, the Board found that the PA and the Female Applicant had difficulty describing Alevi religious practices described in country condition information. Further, when asked if any of the Applicants had changed their religious practices as a result of the persecution they suffered, the PA said there had been no changes. This contradicts the PIF narrative, which states that the Female Applicant attended church less frequently as a result of the persecution she faced. The Board questioned the PA about this inconsistency, and the PA stated that he could not remember.

[13] Based on the above, the Board concluded that the Applicants had not provided sufficient reliable and credible evidence to establish that they faced a serious possibility of persecution in Turkey based on their religion. The Board also considered submissions by the Applicants that the Female Applicant's sister and her family had made a successful refugee claim to Canada in June, 2010. However, the Board noted that the decision pertaining to the Female Applicant's sister is

not binding and in any event, elements of that claim were different than the claim of the Applicants.

[14] The Board concluded by finding that there was no residual evidence to support a claim for refugee protection. The Board acknowledged that country condition information indicates that Alevis are unable to state their religion on their national identity cards and that there are reports of societal abuses and discrimination based on Alevi religious affiliation, belief and practice. Despite this, additional country condition information indicates that the government generally respects religious freedom and Alevis freely practice their beliefs and build places of gathering. Additionally, while Alevis have faced social and employment discrimination, the situation has improved in recent years.

III. Standard of Review

[15] The standard of review for determinations of credibility is reasonableness (*Aguebor v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 732, at para 4; *Dunsmuir v New Brunswick*, 2008 SCC 9, at paras 47-48).

IV. Analysis

[16] The Applicants criticize the Board's findings regarding their knowledge of Alevi religious practices, citing excerpts from the hearing transcript which shows that the Female Applicant and the PA were able to answer many questions about Alevi religious practices. The Applicants argue that the Board's credibility findings were unreasonable because they were, in

reality, implausibility findings that were supported by the evidence (*Hassan v Canada (Minister of Citizenship and Immigration)*, 2010 FC 1136).

[17] The Applicants also argue that the Board engaged in a microscopic examination of the evidence. In support of this contention, the Applicants excerpt portions of the hearing transcript where the PA is questioned about the incident on May 1, 2007. The Applicants argue that the transcript demonstrates that the PA was able to provide an appropriate level of detail about that incident.

[18] I do not agree with the Applicants' characterization of the Board's treatment of the evidence, other than with respect to questioning of the Applicants' religious beliefs and practices. While counsel made strong arguments that the Board's findings on this front are fundamental to the Board's overall findings on credibility, I am not persuaded that this is true.

[19] The Respondent argues that the Board is entitled to significant deference on its credibility findings (*Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319, at paras 42-46; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12; *Aguebor*; *Sinan v Canada (Minister of Citizenship and Immigration)*, 2004 FC 87, at para 11; *Sahota v Canada (Minister of Citizenship and Immigration)*, 2008 FC 123, at para 30).

[20] As outlined above, the Board articulated numerous omissions, inconsistencies and contradictions in the evidence presented by the Applicants. These related to the central allegations of mistreatment by Muslim extremists and the police. These findings were in the

Board's purview as a finder of fact, and it is entitled to deference (*Rahal*, at paras 42-46; *Khosa*; *Sheikh v Canada (Minister of Employment and Immigration)*, [1990] 3 FC 238 (FCA)). It is telling that only two of the Board's findings were challenged by the Applicants. While the Board may have overstated the vagueness of the Applicants' responses on religious practices of the Alevi, there were numerous other credibility findings that ensure the Board's overarching credibility finding and the decision as a whole was reasonable.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application is dismissed;
2. There is no question for certification.

"Michael D. Manson"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-2355-13

STYLE OF CAUSE: RESIT KARACAN, HAMIDE KARACAN,
REHAMURAT CAHIT KARACAN, KARIKA AYTEN
KARACAN v THE MINISTER OF CITIZENSHIP AND
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