

Federal Court



Cour fédérale

**Date: 20150501**

**Docket: IMM-1046-14**

**Citation: 2015 FC 574**

**Ottawa, Ontario, May 1, 2015**

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

**BETWEEN:**

**JUDITH JACULINE FRANCIS  
JAYARATNAM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Background

[1] This is an application for judicial review of a decision of the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada. On January 27, 2014, the RPD found that the applicant, Judith Jaculine Francis Jayaratnam, was neither a Convention refugee nor a

person in need of protection under either section 96 or subsection 97(1) of the *Immigration and Refugee Protection Act, SC 2001, c 27 (IRPA)*.

[2] For the reasons set out below, I have concluded that the RPD's decision should stand and the present application should be dismissed.

## II. Facts

[3] The applicant is a Tamil citizen of Sri Lanka. Before she left Sri Lanka, she was a psychological district liaison officer for the Consortium of Humanitarian Agencies, a network of humanitarian agencies in Sri Lanka.

[4] The applicant alleges that on April 7, 2013, she was acting as a Tamil/English interpreter for an Italian woman who was working with HALO Trust, an organization working on de-mining some areas in the north of Sri Lanka. Their task was to question locals about identification and reporting of mined areas and what action had been taken on such reports.

[5] The applicant alleges that, as a Tamil woman working with an international organization, she received information from locals that went beyond the subject of her work. The applicant refers specifically to two pieces of information:

1. A resettlement camp consisting of temporary shelters and built for young war widows with children was located near an army camp, exposing the widows to possible abuse from army personnel.

2. Men in communities located near minefields would go into the minefields at night to retrieve scrap metal to scavenge for money.

[6] Several times during the course of the day the applicant acted as an interpreter for HALO Trust, a man the applicant took to be a member of the army (though he was dressed in civilian clothes) warned her to be careful what she chose to translate. The applicant suggests that the army was concerned about certain sensitive information being made public. She claims that she was so frightened by these warnings that she pretended to be sick the next day in order to avoid a similar situation. The applicant alleges that she received another similar warning while she was at her temporary residence in the area.

[7] The applicant also alleges that, upon her return to her home in Colombo, other unknown persons came to her several times over the next few months warning her not to tell anyone about the information she had received on April 7, 2013. The last of these alleged warnings was at the airport on November 12, 2013, as the applicant was leaving Sri Lanka to attend a conference.

### III. The RPD's Decision

[8] The RPD noted that the applicant did not tell anyone of her concerns, either with regard to the warnings she received while in the north of Sri Lanka or with regard to those she received after returning home, except to tell her replacement interpreter to "be careful when you translate."

[9] The RPD also noted that the applicant was not aware of anyone else at HALO Trust having similar problems.

[10] The RPD found that the information that was communicated to the applicant while she was in the north of Sri Lanka was not confidential or sensitive, and it was doubtful that she would face a serious threat because of it. The RPD noted that nothing serious had happened in the seven months between the first warnings and her departure from Sri Lanka.

[11] The RPD concluded that the applicant had not demonstrated a serious possibility that she would be persecuted in Sri Lanka on a Convention ground, or that, on a balance of probabilities, she would be personally subjected to the dangers or risks contemplated in subsection 97(1) of the *IRPA*.

#### IV. Analysis

[12] The applicant argues that the RPD made an unreasonable finding of a lack of credibility after having acknowledged that there were no contradictions in her testimony. The applicant argues that the RPD made no explicit statement that it did not believe that she had received the warnings she alleges while she was in the north of Sri Lanka. The applicant argues that it is not open to the RPD to make a finding of lack of credibility implicitly. The applicant argues that the RPD effectively made findings of implausibility which should be done only in the clearest of cases (where the allegations are outside the realm of what could reasonably be expected), being careful not to be diverted by cultural differences, and only after clearly identifying the factual

basis for the finding: *Isakova v Canada (Citizenship and Immigration)*, 2008 FC 149 at paras 10-12.

[13] I am not prepared to interfere with the RPD's conclusion. The RPD provided several reasons for concluding that the warnings the applicant alleged she received did not happen: she never told anyone of the warnings; no one else seems to have received similar warnings; the information in question was not particularly sensitive; and, there was no further action on the warnings. It is also notable that there is no contemporaneous writing by the applicant concerning the alleged warnings. I am mindful that, even in applying the rigorous standards for findings of implausibility, the applicable standard of review is reasonableness. I must show deference to the RPD's assessment of the evidence.

[14] The applicant argues that it is not the precise content of the information the applicant received while she was in the north of Sri Lanka that is important. Rather, what is important is the Sri Lankan authorities' perception of the content of that information. If I understand this argument correctly, it is that the danger arises because the Sri Lankan authorities may believe that the applicant received information of greater sensitivity than was actually the case. However, this argument is essentially asking me to reach a different conclusion from the evidence than the RPD did. It is not my role to reweigh the evidence.

[15] In addition to the RPD's apparent doubt as to whether some of the warnings happened at all, the RPD also concludes that any warnings that were communicated to the applicant were not serious enough to warrant granting asylum. Again, the RPD notes that over seven months passed

from the day the applicant heard the information in question until the day she left Sri Lanka, all without incident.

[16] The applicant also asserts that she is at particular risk in Sri Lanka as a single woman. Given that she cited no problems in Sri Lanka other than those arising from the events of April 7, 2013, this assertion is insufficient to set aside the RPD's decision.

[17] Finally, the applicant asserts that her asylum claim was not properly assessed under section 97 of the *IRPA*. However, the findings of lack of credibility and lack of seriousness of the risks are sufficient to dispose of the applicant's claim under section 97. The RPD committed no reviewable error.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The present application for judicial review is dismissed.
2. No serious question of general importance is certified.

“George R. Locke”

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Judge

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

**DOCKET:** IMM-1046-14

**STYLE OF CAUSE:** JUDITH JACULINE FRANCIS JAYARATNAM v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** MARCH 24, 2015

**JUDGMENT AND REASONS:** LOCKE J.

**DATED:** MAY 1, 2015

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