Federal Court Cour fédérale

Date: 20160602

Docket: IMM-4875-15

Citation: 2016 FC 619

Ottawa, Ontario, June 2, 2016

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

AMGAD ADIL ABDI MOHAMED

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision made by a Pre-Removal Risk Assessment ("PRRA") officer ("PRRA Officer") dated August 31, 2015 rejecting the Applicant's PRRA application and finding that he is neither a Convention refugee nor a person in need of protection pursuant to s 96 or s 97, respectively, of the *Immigration and Refugee Protection Act*, SC 2001 c 27 ("IRPA").

Background

[2] The Applicant is a 26 year old citizen of Sudan who claims that he was detained and tortured by Sudanese security forces twice in 2011 due to his membership in Girifna, a political opposition organization, and therefore fled to Canada. He made a claim for refugee protection on January 23, 2012.

[3] In October 2013 the Refugee Protection Division ("RPD") of the Immigration and Refugee Board of Canada rejected the Applicant's claim based on credibility concerns. The RPD stated that the Applicant's claim was based on his perceived political opinion because of his activities in Girifna as a student. In the alternative, the Applicant claimed that he would be forced to serve in the military and treated badly. On the latter claim the RPD found that the Applicant was simply a young man who did not want to report for service, which is compulsory for all Sudanese young men. This was not a fear based on any ground of the Convention. Given the Applicant's general lack of credibility, the RPD also found that his claim had no credible basis.

[4] The Applicant filed an application for judicial review of the RPD's decision. In August 2015, Justice Heneghan dismissed the application. She noted the Applicant's submission that the RPD had failed to consider all of the grounds of his claim, specifically his status as a conscientious objector, and that the RPD had erred in its credibility findings. However, she was not persuaded that the RPD had failed to consider all possible grounds for protection arising from the Applicant's evidence and the documentary evidence that was presented. Further, that

his arguments based on his status as a conscientious objector could not succeed. Military service in Sudan is compulsory and does not constitute persecution. The RPD had considered the Applicant's arguments but he had failed to present evidence that he would face persecution if he evaded military service. Justice Heneghan concluded that there was no reviewable error in the RPD's treatment of this aspect of his claim and that the RPD's credibility findings were reasonable.

[5] The Applicant then applied for a PRRA, which was refused.

Decision Under Review

[6] The PRRA Officer found that the application reiterated the same elements of harm that were assessed by the RPD which had found that the Applicant's draft evasion was not based on conscientious objection or fear of being mistreated.

[7] Despite this, the PRRA Officer also considered the Applicant's submission that the RPD did not make a finding on the Applicant's allegations of conscientious objection. The PRRA Officer noted that the Applicant's affidavit filed in support of his PRRA application stated that he had reviewed the recording from the RPD hearing which confirmed that he provided two reasons for objecting to service with the Sudanese army. The first of these were "that people like me are sent to the front lines without training and are very likely to be killed", the second was that the "Sudanese army is killing the people. They are killing people in Darfur". The PRRA Officer found the RPD had the opportunity to consider the information contained in the Applicant's Personal Information Form ("PIF") narrative and his oral testimony in its entirety.

The PRRA Officer stated that while he was not bound by the RPD's decision, there was insufficient evidence to reach a different conclusion.

[8] The PRRA Officer found that even if the Applicant had established that he had been called to serve, compulsory military service, in itself, does not constitute persecution nor does prosecution and incarceration of conscientious objectors. Such sanctions and penalties are pursuant to general laws enacted by a legitimate state and there was no evidence that the punishments in Sudan are excessive or beyond internationally accepted standards.

[9] The PRRA Officer noted that the Applicant also alleged a new fear of persecution as a returned asylum seeker and claimed that he would face severe repercussions, monitoring and interrogation by the authorities. The PRRA Officer noted several problems with the article relied on by the Applicant in support of this claim and concluded that it did not demonstrate that all returnees are treated with suspicion and monitored, interrogated or detained. The PRRA Officer also reviewed other documentary evidence, including a document indicating that returnees to Sudan are not at real risk on return to Khartoum and a report indicating that returnees might face surveillance or questioning if they were seen as a threat for political reasons. The PRRA Officer found that the Applicant presented little evidence that he is wanted by the authorities and, given the RPD's negative credibility findings regarding the Applicant's political involvement, that the Applicant would not be viewed as a threat to the state and, therefore, was not at risk of interrogation or detention upon return.

Issues

[10] The Applicant submits that five issues arise from the PRRA Officer's decision. In my view, these can be reframed as follows:

1) Was the PRRA Officer's assessment of the Applicant's risk based on his objection to military service reasonable?
2) Did the PRRA Officer apply the wrong standard when assessing the Applicant's risk of persecution if returned to Sudan as a failed asylum seeker?
3) Was the PRRA Officer's assessment of the evidence regarding treatment of returnees to Sudan reasonable?

Standard of Review

[11] The parties submit and I agree that PRRA decisions are generally reviewed on the reasonableness standard (*Betoukoumesou v Canada (Citizenship and Immigration)*, 2014 FC 589 at para 16; *Kaur v Canada (Citizenship and Immigration)*, 2014 FC 505 at para 35; *Belaroui v Canada (Citizenship and Immigration)*, 2015 FC 863 at paras 9-10 [*Belaroui*]; *Wang v Canada (Citizenship and Immigration)*, 2010 FC 799 at para 11).

[12] The assessment conducted by a PRRA officer, including his or her conclusions regarding the proper weight to be accorded to the evidence, warrants considerable deference (*Belaroui* at para 10; *Aboud v Canada (Citizenship and Immigration)*, 2014 FC 1019 at para 33 [*Aboud*]; *Korkmaz v Canada (Public Safety and Emergency Preparedness)*, 2015 FC 1124 at para 9 [*Korkmaz*]).

[13] The Applicant also submits that the PRRA Officer's errors in law are reviewable on the correctness standard, but does not specify which such errors attract that standard. I would agree, however, that the question of whether the PRRA Officer applied the correct standard in evaluating the Applicant's s 96 risk of persecution as a failed refugee claimant should be reviewed on the correctness standard (*Pidhorna v Canada (Citizenship and Immigration)*, 2016 FC 1 at para 19; *Nyiramajyambere v Canada (Citizenship and Immigration)*, 2015 FC 678 at para 38).

Issue 1: Was the PRRA Officer's assessment of the Applicant's risk based on his objection to military service reasonable?

Applicant's Position

[14] The Applicant submits that the PRRA Officer erred in law by failing to consider the nexus to a Convention ground flowing from his refusal to participate in military service that amounts to war crimes or human rights abuses. Where the actions to which the claimant objects are condemned by the international community, punishment for desertion could in itself amount to persecution (The United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, (1992) HCR/IP/4/Eng/REV.1 at para 171). The Federal Court of Appeal has found that selective objection to a particular conflict or operation that has been condemned by the international community should be recognized as conscientious objection and, therefore, creates a nexus to the Convention ground of political opinion (*Zolfagharkhani v Canada (Minister of Employment and Immigration)*, [1993] 3 FCR 540 (FCA)). This Court has subsequently found that selective objection to military actions that have been condemned can

constitute grounds for refugee protection (*Bakir v Canada (Minister of Citizenship and Immigration)*, 2004 FC 70 at para 30; *Key v Canada (Citizenship and Immigration)*, 2008 FC 838 at para 29; *Lebedev v Canada (Citizenship and Immigration)*, 2007 FC 728 at para 70 [*Lebedev*]).

[15] When a claim based on conscientious objection is made, the decision-maker must assess the subjective beliefs of the claimant and the objective evidence of military action in question (*Hinzman v Canada (Citizenship and Immigration)*, 2006 FC 420 at paras 108-109, aff'd 2007 FCA 171 [*Hinzman*]; *Lebedev* at para 59). The Applicant submits that neither the RPD, nor the Federal Court in judicial review addressed his reasons for not wanting to serve in the Sudanese military. And, because the RPD did not make a determination on the Applicant's claim that he objected to the Sudanese military's alleged human rights abuses, the PRRA Officer could not rely on a finding the RPD simply did not make. The PRRA Officer failed to conduct the necessary analysis, consider the Applicant's evidence or even turn his or her mind to the Applicant's conscientious objection based on the Sudanese military's human rights abuses. Instead, it focused on punishment of draft evaders and relied on the RPD's findings. The Applicant submits that this was a reviewable error.

Respondent's Position

[16] Regarding nexus to a Convention ground, the Respondent submits that the Applicant led little evidence that he had objected to military service based on the Sudanese military's human rights abuses. No such statement was made in his PIF, nor did the RPD or the Federal Court decisions refer to statements by the Applicant about Sudanese military abuses. The Respondent

also notes that the Applicant failed to provide a transcript of the RPD hearing to the PRRA Officer, which the PRRA Officer noted was a weakness in the evidence. When the Applicant produced a transcript at the stay hearing, it confirmed that the Applicant's fear of serving in the military was based on his prior anti-regime activity and the fact that the Sudanese army is killing people in Darfur and Nidiala. The latter statement does not refer to allegations of war crimes or human rights abuses. Nor was this a central element of the Applicant's oral testimony before the RPD about the basis of his claim and the record demonstrates that the Applicant never forcefully articulated the basis for his conscientious objection. Although the Applicant made the assertion in his affidavit for the PRRA that he objected due to war crimes and human rights abuses by the Sudanese military, this is not the evidence he originally led at the RPD hearing.

[17] The Respondent submits it was therefore reasonable for the PRRA Officer to rely on the RPD's assessment of the Applicant's own words in oral testimony at his refugee hearing as the best evidence of the basis for his claim, to support the PRRA Officer's finding that the Applicant had not established a credible basis for his conscientious objection.

[18] Further, the Respondent submitted that the Applicant could have been expected to lead evidence on conscientious objection at the RPD hearing and in his PIF (*Yasik v Canada (Citizenship and Immigration)*, 2014 FC 760). The Respondent submits that, similar to *Yasik*, the RPD in this case determined that the Applicant had not established the sincerity of his conscientious objection beliefs. In the PRRA, the only new evidence on the sincerity of the Applicant's beliefs was the Applicant's own affidavit. The PRRA Officer reviewed the RPD's negative credibility findings, noting the no credible basis finding, and determined that the new

evidence provided by the Applicant in his affidavit was insufficient to establish a claim based on conscientious objection. Because the first branch of the test, the sincerity of the Applicant's belief, was not established, there was no requirement to assess the second branch of the test, condemnation of the military action by the international community (*Lebedev* at paras 44-45; *Atagun v Canada (Minister of Citizenship and Immigration)*, 2005 FC 612 at para 7; *Suhatski v Canada (Citizenship and Immigration)*, 2011 FC 1405 at paras 44-46 [*Suhatski*]).

Analysis

[19] The Applicant essentially submits that his objection to military service, based on human rights abuses by the Sudanese military, was before the RPD but that it was not considered.

[20] It is significant to note that the Applicant's alleged conscientious objection is based on two pieces of evidence. The first is the statement in his PIF where he claims that when he was released from detention he signed an agreement stating that he would no longer participate in anti-government actions, he would give up his affiliation with Girifna "and report to the military services (to which I strongly object)". The reason for his objection was not stated.

[21] The second piece of evidence is found in the Applicant's testimony before the RPD. The Applicant did not provide the transcript or recording to the PRRA Officer (or in his Application Record filed in this judicial review), but instead reproduced an extract from his testimony in an affidavit submitted in support of his PRRA. In the decision, the PRRA Officer reproduced the two quotes from the Applicant's affidavit which were allegedly the two reasons given by the Applicant to the RPD for not wanting to serve in the Sudanese military. The first quote was

"that people like me are sent to the front lines without training and are very likely to be killed". The second quote was "[t]he Sudanese army is killing the people. They are killing people in Darfur". I note that while the PRRA Officer appears to question the reliability of these statements, he did not make a credibility finding but deferred to the RPD's decision.

[22] The RPD in its decision stated the following:

> [15] *The claimant was asked about the military service; whether it was compulsory, and why he objected to it.* He stated that it was compulsory, and that he had delayed by being a student, and that he feared that due to his political history, he would be sent to the front lines and killed.
>
> [16] *The panel noted that the claimant did state in his narrative that he objected to military service,* however, it is not unique to him, and he is a Sudanese national. He was aware, that he was attending the college [*sic*], and merely delaying service.
>
> [17] Considering the general lack of credibility of the claimant's political involvement, in particular with his alleged participation in Grifina [*sic*], which the panel just does not believe for the reasons stated above…together with the reasons for the objection to military service*, which the claimant has clarified in the hearing room,* the panel concludes that this is simply a matter of a young man who does not want to report for service, which is compulsory for all Sudanese young men. This is not a fear based on any ground of the Convention.
>
> (emphasis added)

[23] It is well established that a PRRA is not an opportunity for a failed refugee claimant to appeal or seek reconsideration of an RPD decision that rejected his or her claim for refugee protection. Rather, it is an opportunity for a failed refugee claimant to demonstrate that, due to changes in country conditions or personal circumstances since the RPD decision, the claimant is now at risk (*Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385 at paras 12-13

[*Raza*]; *Haq v Canada (Minister of Citizenship and Immigration)*, 2016 FC 370 at para 16*;* *Escalona Perez v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1379 at para 5 [*Escalona Perez*]). As stated by the Federal Court of Appeal, the outcome of a negative refugee determination must be respected by the PRRA officer in the absence of new admissible evidence that might have affected that outcome (*Raza* at para 13; *Aboud* at para 20; *Escalona Perez* at para 5).

[24] In this matter, the parties' arguments largely turn on the PRRA Officer's treatment of the RPD's decision. In this regard, the PRRA Officer noted at the beginning of his decision that the Applicant reiterated the same elements of harm that he had stated before the RPD. Regardless, the PRRA Officer also found that the new evidence was insufficient to substantiate the Applicant's claim based on objection to military service:

> Having assessed the applicant's narrative and oral testimony, along with documentary materials, the RPD concluded that the applicant had never been involved with Girifna, and that the applicant's draft evasion was not a result of the applicant's conscientious objection or his fear of being mistreated within the armed forces for his past political activities. The RPD also made a finding of "no credible basis". While I am certainly not bound by the decision of the RPD or required to make a finding in accordance with theirs, I find that in this particular case, there is insufficient evidence to reach an alternate conclusion.

[25] The Applicant submitted that the RPD did not make a finding on his allegations of conscientious or selective objection to military service and that the PRRA Officer misstated the RPD's finding, which did not deal with selective objection to military service but was simply a general credibility finding. However, in my view, it was reasonable for the PRRA Officer to conclude that this issue had already been dealt with by the RPD based on the Applicant's PIF,

those parts of the testimony reproduced in his affidavit and the RPD's decision. As set out above, the RPD explicitly considered the reasons given by the Applicant for his objection to military service, noting that the Applicant had clarified his reasons during the hearing. The RPD made the determination that the Applicant was a "young man who does not want to report for service". The RPD did not believe that the Applicant was involved with Girifna, it found the Applicant not to be credible and that his claim was without a credible basis. Thus, it follows that it did not accept the claim in his PIF that he was detained because of his involvement with Girifna or that upon his release he agreed to report for military service, to which he strongly objected. The RPD also considered the reasons the Applicant gave at the hearing for objecting to military service, but simply did not accept that they amounted to anything more than not wanting to report for compulsory service. In these circumstances it was open to the PRRA Officer to find that the issue had been dealt with by the RPD.

[26] My view in this regard is reinforced by the fact that on judicial review of the RPD's decision, the Applicant argued that the RPD had failed to consider all of the grounds of his claim, specifically his status as a conscientious objector, as he does in the present case. However, Justice Heneghan upheld the RPD decision, stating that she was not persuaded that the RPD had failed to consider all possible grounds for protection arising from the evidence that was presented.

[27] In any event, although the PRRA Officer determined, in essence, that conscientious objection was not a new risk and had been dealt with by the RPD, the PRRA Officer also found that the new evidence was insufficient to warrant a departing from the RPD's conclusion.

[28] Because a PRRA is not an appeal or reconsideration of an RPD decision (*Raza* at para 12; *Singh v Canada (Citizenship and Immigration)*, 2013 FC 201 at para 15 [*Singh*]; *Escalona Perez* at para 5; *Aboud* at para 20), the PRRA Officer was only called upon to determine if the new evidence might have affected the outcome.

[29] In this regard, I would note that the term conscientious objection applies to those who are totally opposed to war because of their politics, ethics or religion. Selective objection refers to cases in which an applicant opposes a war he claims violates international standards of law and human rights (*Lebedev* at para 42). The terms are, however, often confused (see *Lebedev* at paras 39-46). To establish that he was a selective objector, the Applicant had to first establish that he objected to service in the Sudanese military for sincere reasons of conscience (*Lebedev* at para 59; *Hinzman* at paras 108-109; *Suhatski* at para 44). Thus, what was at issue was the genuineness of his moral convictions or of the reasons of conscience for objecting.

[30] However, the only evidence filed with the Applicant's PRRA application addressing this was his affidavit which the PRRA Officer stated that he had considered. The affidavit repeats the factual submissions the Applicant made before the RPD. It also states that the Applicant wishes to elaborate on the reasons why he is opposed to serving in the Sudanese military. Specifically, that he is morally opposed to the killing of civilians and to any government using violent force to repress its civil opposition and that the Sudan military and government paramilitary regularly engage in such actions. He states that it is also well known that these groups are responsible for war crimes and crimes against humanity. In my view, although the

affidavit added details or elaborates on why he objects to military service, it adds little if anything to the facts that were before the RPD or to establish the genuineness of his belief.

[31] The PRRA Officer found that the new evidence was insufficient to support a conclusion other than that found by the RPD. In effect, this meant that the affidavit did not provide sufficient new evidence of sincerely held beliefs to meet the first branch of the test for selective objection to military service. Therefore, it was unnecessary for the PRRA Officer to engage with the Applicant's submissions on the second branch of the selective objection test, whether the military action was condemned by the international community (*Raza* at para 12; *Singh* at para 15; *Escalona Perez* at para 5; *Aboud* at para 20).

[32] The RPD clearly accepted the existence of compulsory military service in Sudan, considered the reasons the Applicant gave as the basis of his objection to serving in the military and found that the objections were not based on valid grounds with a nexus to the Convention. As discussed above, the PRRA Officer concluded that the issue was previously addressed and determined by the RPD and, further, that there was insufficient new evidence to deviate from the RPD's findings. Given the deference owed to PRRA officers, I find no error in the PRRA Officer's decision and, for the above reasons, find that the PRRA Officer's assessment of risk based on the Applicant's objection to military service was reasonable.

Issue 2: Did the PRRA Officer apply the wrong standard when assessing the Applicant's risk of persecution if returned to Sudan as a failed asylum seeker?

Applicant's Position

[33] The Applicant submits that the PRRA Officer erred by applying the same standard of proof, the balance of probabilities, to both ss 96 and 97 of the IRPA. Further, that on multiple occasions the PRRA Officer applied a higher standard of proof than "more than a mere possibility" as required by s 96 in assessing the Applicant's evidence regarding the treatment of returnees to Sudan, an error that requires the decision be set aside (*Talipoglu v Canada (Citizenship and Immigration)*, 2014 FC 172 at paras 28-30).

[34] The Applicant also points to the PRRA Officer's quotation from the UK Asylum and Immigration Tribunal ("UK Tribunal") which states that returnees are not at "real risk on return to Khartoum". The Applicant submits that "real risk" has no meaning in Canadian law and that by relying on this legal opinion the PRRA Officer failed to exercise his jurisdiction to apply the Canadian test of "more than a mere possibility of persecution". The Applicant also notes that the PRRA Officer did not assess whether the UK and Canadian standards for risk are comparable.

Respondent's Position

[35] The Respondent submits that the Applicant relies on a single line from the decision where the PRRA Officer stated that a particular news article did not establish that all returnees from the West are treated with suspicion. However, the PRRA Officer went on to review information from several other independent sources and ultimately concluded that because the Applicant

would not be viewed as a threat for political reasons, he would not be at risk as a failed asylum seeker. Further, the PRRA Officer did not state that he was relying solely on the conclusion drawn by the UK Tribunal, nor that he or she adopted that finding. The reference to the article was not an error nor was the assessment of differing evidence from multiple sources unreasonable.

Analysis

[36] I would note first that in the "results of assessment" section of the PRRA Officer's decision, the correct standards are stated. There it is noted that by its nature risk is forward-looking and that the PRRA Officer was unable to conclude that there was serious possibility that the Applicant would be persecuted for any reason upon return to Sudan. He also found that the Applicant was not likely, on the balance of probabilities, to face torture, risk to life, or risk of cruel and unusual treatment or punishment. It is well established that "serious possibility" is a correct expression of the standard to be applied in s 96 analyses, which is less than 50% or a probability (*Adjei v Canada (Minister of Employment and Immigration)*, [1989] 2 FC 680 (FCA) at para 8; *Gao v Canada (Citizenship and Immigration)*, 2014 FC 59 at para 25 [*Gao*]).

[37] In my view the paragraph of the decision relied upon by the Applicant in support of its submission is actually indicative of carelessness or imprecision of language rather than a reviewable error (*Gao* at paras 26-27). Similar to *Gao*, while the PRRA Officer should have been more accurate in distinguishing between the balance of probabilities standard under s 97 and the serious possibility standard under s 96, the decision as a whole demonstrates that the PRRA Officer did not hold the Applicant to a higher standard of proof. Viewed in context, I

reach the same conclusion with respect to the Applicant's other submissions providing examples of language used by the PRRA Officer which purportedly supported a finding that he or she was looking for a higher degree of certainty than required by s 96.

[38] I would also note that reference to "balance of probabilities" in the context of a s 96 analysis is not necessarily indicative of error as it reflects the evidentiary standard, as opposed to the standard for establishing risk of persecution (*Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589).

[39] The Applicant also submits that the PRRA Officer's quotation from the UK Tribunal that "Neither involuntary returnees nor failed asylum seekers nor persons of military age (including draft evaders and deserters) are as such at real risk on return to Khartoum" illustrates a failure to apply the Canadian test for s 96. However, the PRRA Officer reproduced this quote after noting that, in addition to the reports submitted by the Applicant, he or she had reviewed information on the treatment of returnees to Sudan obtained from a variety of reliable sources which he or she listed at the end of the decision. The PRRA Officer then went on to quote from a research document issued by the Australian Refugee Review Tribunal. Viewed in context, the PRRA Officer was engaged in a balancing of the documentary evidence when he or she referred to the subject quote. I see nothing in the decision to support the suggestion that he or she relied on or was adopting "real risk" as the standard of proof or that he or she failed to exercise jurisdiction.

Issue 3: Was the PRRA Officer's assessment of the evidence regarding treatment of returnees to Sudan reasonable?

Applicant's Position

[40] The Applicant submits that the PRRA Officer erred by relying on a statement made by a Sudanese government official regarding the treatment of failed asylum seekers which was quoted in the Australian Refugee Review Tribunal report. The Applicant submits that the statement is contradicted by UN officials quoted in the same report. The PRRA Officer's preference of a statement from the Sudanese government over evidence from returnees themselves and UN officials is clearly unreasonable, particularly since the evidence is otherwise consistent that some returnees are subject to monitoring and interrogation.

Respondent's Position

[41] The Respondent submits that the PRRA Officer weighed country condition evidence from multiple sources and concluded that because the Applicant would not be viewed by the state as a threat for political reasons, he would not be at risk as a failed asylum seeker. In essence, what the Applicant asks is that the Court reweigh the evidence in his favour.

Analysis

[42] As noted above, the PRRA Officer referred to numerous independent documents that he had reviewed when assessing the new risk of persecution as a failed asylum seeker. The PRRA Officer specifically referred to the documentary evidence submitted in support of the Applicant's

alleged risk as a returnee which consisted of one article, "The Danger of Returning Home: The perils facing Sudanese immigrants when they go back to Sudan", and identified the concerns he had with the document. He then made reference to other documents and included a lengthy quote from an Australian Refugee Review Tribunal research document in assessing risk to returnees. That document included information from an official in the Sudanese government who denied that returning Sudanese citizens would be arrested and questioned, unless they are wanted by the authorities. Further, the official stated that even former militant members of the opposition who had fought against the government could return without problem and that there was an amnesty for such persons.

[43] The same document also contains comments from United Nations High Commissioner for Refugees ("UNHCR") officials who stated that they did not believe that returnees would face severe problems or were particularly targeted upon return to Sudan, or that they would automatically be arrested at the airport. However, such persons might face surveillance or questioning from security forces if they are seen as a threat to the state or for political reasons.

[44] One of these UNHCR officials is also quoted in a UK Home Office report "Republic of Sudan: Country of Origin Information (COI) Report", September 11, 2012 ("UK 2012 Report") document, stating that "Failed asylum seekers won't face severe problems upon return, as long as they are not recognized as a threat to the state". The same document goes on to quote an official with the United Nations High Commissioner For Human Rights stating:

> In the past persons who left the country after the coup and stayed away for more than one year, would be questioned upon return automatically. This is no routine policy anymore; also the practice of arrests straight at the airport is not common anymore at the

> moment. Returnees might get visits from security officers later and be questioned or warned not to start and 'funky business' in Sudan. I have no information that these people are particularly being targeted. Instead, some people who have been abroad for many years, maybe for political reasons, have come back to Khartoum. They are subject to close surveillance and they know they cannot engage in poetical activities. They also know they can be arrested, questioned and detained at any time. They feel a little bit more secure if they obtained a foreign passport before tier return. But if they are Sudanese citizens, they have no protection at all.

[45] Although the Applicant submits that this quote contradicts the PRRA Officer's findings, I am not convinced that this is contradictory as it indicates that arrests at the airport are no longer common practice and that persons who were formerly involved in political matters are subject to surveillance and can be subject to arrest. The PRRA Officer stated that the Applicant had provided little evidence that he had ever been arrested or detained or that he is currently wanted by the Sudanese police. Further, the RPD found that the Applicant was not credible with respect to his involvement with Girifna, a finding that was not overcome in his PRRA.

[46] As stated above, PRRA officers' decisions are entitled to considerable deference on evidentiary issues (*Aboud* at para 33; *Korkmaz* at para 9). Here the documentary evidence was not as consistent as the Applicant submits, but was mixed. There was no undue reliance on the statement from the Sudanese government official. The PRRA Officer was alive to the nuances in the evidence, finding that while not all returnees are at risk, those who are perceived as a threat to the regime may be. Given the RPD's negative credibility findings regarding the Applicant's alleged political activities, it was not unreasonable for the PRRA Officer to find that the Applicant would not be viewed as a threat and, therefore, would not be at risk on return.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. There shall be no order as to costs.
3. No question of general importance for certification was proposed or arises.

"Cecily Y. Strickland"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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