

Federal Court



Cour fédérale

**Date: 20160718**

**Docket: IMM-5233-15**

**Citation: 2016 FC 813**

**Ottawa, Ontario, July 18, 2016**

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

**BETWEEN:**

**MUHAMMAD NASIM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant is seeking judicial review pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], of a decision dated October 27, 2015 of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada. In that decision, made pursuant to section 111(1)(a) of *IRPA*, the RAD confirmed the determination of the Refugee Protection Division [RPD] that the Applicant is neither a Convention refugee nor a person in need of protection.

[2] For the reasons that follow, this application is dismissed.

I. Background

[3] The Applicant's allegations are detailed in the narrative portion of his Basis of Claim [BOC] form. The Applicant is a citizen of Pakistan who alleges that in 2000 he joined the Awami National Party [ANP] in the Swat District of Pakistan. Under the banner of the ANP, he worked for three NGOs, Save the Children, OMEED and the Devolution Trust for Community Empowerment [DTCE], restoring schools and assisting women's education. The Applicant alleges that, as a result of this work, he received threatening calls from the Taliban in November 2013 and 2014.

[4] The Applicant claims to have reported the threatening phone calls to the police but that they refused to take any sort of action because the Applicant could not identify the callers. Following a call on February 23, 2014, in which his life was threatened, the Applicant moved to Karachi. Shortly thereafter, he alleges he was shot at by the Taliban while shopping at a local bazaar. The Applicant says he reported the shooting incident to the police but that they did nothing to assist him other than make a report of the matter. He then left Pakistan and claims that he is unable to return because of his fear of being killed by the Taliban.

[5] In his BOC form, the Applicant also details a prior refugee claim he made in the United Kingdom [U.K.] in 1996 based on his membership in the Jamaat-e-Islami Party. His claim was rejected and he was deported back to Pakistan in 1999. The Applicant alleges that he never

resumed his support for the Jamaat-e-Islami Party due to its fundamentalist policies and support for the Taliban.

[6] The Minister of Citizenship and Immigration [the Minister] filed a Notice of Intent to Intervene in the RPD's hearing of the Applicant's refugee claim and submitted evidence related to credibility issues. The Minister submitted a Five Country Conference Report from the United States [U.S.] Department of Homeland Security that indicated the Applicant was fingerprinted on May 3, 2007 in conjunction with an application for a U.S. non-immigrant visa made under the name Fnu Salim. The Minister submitted that the Applicant had not noted any difficulties in Pakistan between 1999 and November 2013 and, as such, he had no reason to misrepresent himself to U.S. officials at the time of his visa application. The Minister concluded that the Applicant was being truthful in his U.S. visa application, that his real name is Fnu Salim, and that he was misrepresenting himself to Canadian authorities to substantiate a refugee claim.

[7] As part of the intervention, the Minister also submitted a Document Analysis Report of the Applicant's National Identity Card [NIC] which found that the card was probably genuine but that it contained a number of anomalies that indicated it may have been altered. The Minister's position was that the RPD should find the Applicant not to be a Convention refugee or a person in need of protection.

## II. RPD Decision

[8] The RPD made adverse findings against the Applicant with respect to his identity and credibility. With respect to identity, the RPD held that there was no clear and convincing

evidence of the Applicant's true identity or his route to Canada. However, as noted below, the RAD subsequently accepted the Applicant's identity as claimed. It is therefore not necessary to set out the RPD's detailed analysis on this issue.

[9] The RPD considered the objective component of the Applicant's alleged well-founded fear of persecution to be a determinative issue. As the Applicant's fear was linked to threats allegedly received because he performed humanitarian work through NGOs, the Applicant was questioned about that work. He testified there were 15 full time workers and 9 to 10 volunteers. He did not know if the full time workers were threatened and testified that a couple of volunteers received threats but were not as active as he was. In assessing the Applicant's evidence, the RPD noted that the Applicant was vague in his responses as to any details of threats to others working under similar circumstances. As a result, the RPD drew a negative inference from this lack of knowledge and concluded that his evidence was untrustworthy and not credible.

[10] The RPD also found that the Applicant had not provided clear and convincing evidence of Pakistan's inability to protect its citizens. He testified that he reported the threatening phone calls to the police but that, since he could not identify the callers, the police did nothing. The RPD concluded that there was nothing before it that suggested, given the particular circumstances, the police did not act in accordance with the evidence before them, i.e. only unsourced telephone calls.

[11] The RPD considered the Applicant's testimony that, following the threats, he moved to Karachi and shortly thereafter, while on his way to a local bazaar, was shot at by the Taliban who

intended to kill him. The RPD observed that the Applicant responded to questions on this incident in a very confusing manner, testifying: that he was not aware of how many Taliban there were because he did not see them; that he was the only one on the street; that he heard the shots, fell to the ground and the bullets landed beside him; and that he heard them running away. The RPD found this story neither credible nor trustworthy on the basis that, if more than one Taliban member had been pursuing the Applicant, they would not have missed their target and would not have run away if he was in front of them on an empty street. The RPD noted that it was unclear from the Applicant's testimony how he was aware they were the Taliban. Further, the RPD found it not credible that the Taliban could have managed to locate the Applicant just a few days after his arrival in Karachi, a city of approximately 15 million people.

[12] The Applicant provided newspaper articles and letters in support of the alleged attack in Karachi. However, in light of its negative credibility findings, the RPD placed no weight on this evidence, finding that it was manufactured in an attempt to establish a refugee claim.

### III. RAD Decision

[13] The Applicant filed an appeal with the RAD, which accepted the Applicant's identity as claimed but, due to lack of credibility, confirmed the RPD's determination that the Applicant was neither a Convention refugee nor a person in need of protection.

[14] The RAD relied on the Federal Court's decision in *Huruglica v Canada (Citizenship and Immigration)*, 2014 FC 799 for the standard by which it was to review the decision of the RPD. The RAD recognized its role was to review all aspects of the RPD's decision and to come to an

independent assessment of the refugee claim, deferring to the RPD only where the lower tribunal enjoys a particular advantage in reaching a conclusion, such as issues of credibility.

[15] In considering the objective basis for a well-founded fear of persecution, the RAD stated that it reviewed all of the Applicant's evidence, including the CD recording of the RPD's hearing, and concurred with the RPD's finding that it was reasonable to expect the Applicant would have discussed the alleged threatening phone calls with full-time NGO workers, other volunteers and, at minimum, with those who were responsible for administering his alleged work with the NGOs concerned. The RAD also observed that the Applicant did not disclose any corroborating documentation concerning his association with the three NGOs, other than: a hand written letter from OMEED dated August 3, 2014, which appeared to be a response to a self-report by the Applicant; some pictures; and a letter from his brother. Accordingly, the RAD found the Applicant failed to provide sufficient credible evidence that he was personally threatened by the Taliban.

[16] With respect to the issue of state protection, the RAD found that it was doubtful the Applicant required police protection and that it was open to the RPD to find the police response to be reasonable in the circumstances. Accordingly, the RAD found that the Applicant failed to rebut the presumption of state protection.

[17] The RAD then noted that the RPD failed to consider the documentary evidence in support of the alleged shooting incident in Karachi. However, the RAD reviewed the evidence and found that, given the implausibility of the Taliban finding the Applicant in Karachi in combination with

the lack of evidence surrounding the Karachi shooting, it was open to the RPD to find the story to be neither credible nor trustworthy. The RAD concurred with this finding.

[18] The RAD also reviewed the evidence concerning the Applicant's pursuit of safety in the U.K. and the U.S. before coming to Canada. The RAD found that these events were significant as they related to the Applicant's general credibility. In relation to the Applicant's residence and refugee claim in the U.K., the RAD found that it strained credulity that he was fleeing persecution considering that he waited approximately three years to make a claim in the U.K., his claim was rejected for lack of corroboration, and the trouble with the alleged agent of his persecution was allegedly resolved in a conversation with his father. In relation to the application for a U.S. non-immigrant visa in 2007, the RAD noted the Applicant testified that he made the application because he feared the Taliban. However, he made no mention in his BOC of any risk from the Taliban that would cause him to leave the country at that time.

[19] The RAD also observed that, in addition to the Applicant's misrepresentations to U.S. authorities, he misrepresented himself to Canadian authorities in his Port of Entry [POE] interview when he stated that he had never used any other name and that he had never been refused refugee status by any other country. Ultimately, the RAD found that the Applicant's actions and testimony raised a serious doubt as to his credibility and that there was insufficient credible evidence to find that he would be at risk of persecution or that he would face a risk to his life if he were returned to Pakistan.

#### IV. Issues and Standard of Review

[20] As identified below in the summary of the Applicant's arguments, he raises a number of issues to be considered by the Court. Together, these issues amount to a consideration of whether the RAD's decision was unreasonable. The parties agree, and I concur, that the standard applicable to the Court's review of the RAD's decision is reasonableness (see *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 [*Huruglica*] at para 14; *Sui v Canada (Citizenship and Immigration)*, 2016 FC 406 at para 14).

[21] The parties confirmed that the articulation of the standard applicable to the RAD's review of the RPD's decision, as addressed recently by the Federal Court of Appeal in *Huruglica*, is not engaged in this application, although the Applicant argues, in support of his position that the RAD's decision is unreasonable, that the RAD failed to conduct its own full and independent assessment of the evidence as is required of an appeal tribunal (see *Ali v Canada (Citizenship and Immigration)*, 2016 FC 396).

#### V. Positions of the Parties

##### A. *Applicant's Arguments*

##### (1) Discussion of Threats with Others

[22] The Applicant says that it was highly speculative for the RAD to concur with the RPD's finding that it was reasonable to expect the Applicant would have discussed the alleged threatening phone calls with other full-time workers or others associated with the NGOs. The



Applicant notes that he testified he had not had any direct contact with full-time NGO workers who may have received threats.

(2) Establishment of Identity and Failure to Consider Evidence

[23] The Applicant also submits that the RAD's decision is unreasonable in light of its finding that the Applicant established his identity and its finding that the RPD failed to consider the documentary evidence in support of the alleged shooting incident in Karachi.

(3) Assessment of Documentary Evidence

[24] The Applicant takes the position that the RAD's assessment of the corroborative evidence in support of his claim is unreasonable for the following reasons:

- A. He provided two letters from OMEED (not one as found by the RAD) which confirmed his volunteer work with the subject organization and the fact that his life was at risk by the Taliban;
- B. The RAD incorrectly stated the source and date of a letter from the National Youth Organization. It also made an unsubstantiated and unreasonable finding when it stated that the letter from the National Youth Organization was a self-report by the Applicant;
- C. Contrary to the RAD's findings, he provided further evidence of his work with NGOs and the problems he incurred in Pakistan as a result, including

the letter from the National Youth Organization, as well as a letter from the General Secretary of the ANP;

- D. The RAD's assessment of the two newspaper articles in support of his claim is unreasonable, as the fact that he may have been the source of one or both of the articles does not provide a basis to discount their probative value;
- E. The RAD ignored or failed to properly consider the probative value of other documentation tendered in support of the Applicant's credibility and the well-foundedness of his claim, including: ANP documentation; Election Commission Cards; a written statement to a Station House Officer; a supporting affidavit from his brother; and photographs showing him engaged in charitable activities with NGOs. Accordingly, the RAD's finding that he had not provided sufficient evidence corroborating his association with NGOs in Pakistan and his problems with the Taliban is unreasonable; and
- F. The RAD's finding as to the implausibility of the Applicant being located in Karachi by the Taliban is unreasonable in light of the acknowledged and documented pervasiveness of the Taliban in Pakistan. The Applicant refers to the country condition documentation establishing this pervasiveness and the connection between the Taliban and organized crime and Pakistan's intelligence service and army.

(4) Presumption of State Protection

[25] The Applicant submits that the RAD's finding that he had not rebutted the presumption of state protection is unreasonable. In support, he states that his evidence clearly indicated the police had been derelict in their response to the attempt on his life by the Taliban and that the documentary evidence concerning the relevant country conditions in Pakistan shows the inability of the Pakistani police to deal with terrorist organizations such as the Taliban. He also notes the RAD did not find that he did not require state protection but only that it was doubtful he did. The Applicant argues that, by failing to conduct its own assessment of the documentary evidence, the RAD failed to truly act as an appeal tribunal and come to its own conclusion with respect to the correctness of the RPD's finding on the issue of state protection, as required by *Huruglica*.

(5) Applicant's Prior Immigration History

[26] The Applicant submits that the RAD placed unreasonable emphasis on his immigration history with the U.S. and the U.K. immigration authorities in determining the credibility and well-foundedness of his refugee claim. The Applicant points out that his immigration history with the U.S. and the U.K. is dated, that the material incidents precipitating his refugee claim in Canada post-date his dealings with the U.S. and U.K. authorities by many years, and that his prior immigration history does not go to the core of his present refugee claim.

(6) Implausibility of Karachi Incident

[27] The Applicant argues the RAD erred by failing to find the RPD's conclusion, that the Taliban would not have missed their target had they intended to kill him, to be highly speculative. In support, he cites *Huruglica* for the proposition that the RAD owes no deference to the RPD in respect of findings that are not based on the credibility of evidence, such as implausibility findings. The Applicant argues that the making of adverse findings of credibility based on implausibility should only be made "in the clearest cases", where "the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the event could not have happened in the manner asserted by the claimant." (see *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 [*Valtchev*]).

B. Respondent's Arguments

[28] The Respondent's overall position is that the RAD refused the Applicant's claim because he was not a credible witness. As a result, there was insufficient credible and trustworthy evidence upon which the RAD could conclude that the claim was well-founded. The Respondent says the RAD's reasons are intelligible and transparent and that, viewing its decision as a whole, the Applicant failed to provide any persuasive arguments to suggest the RAD erred in concluding as it did.

(1) Establishment of Identity

[29] The Respondent argues that the RAD's concurrence with the RPD's overall negative determination is not unreasonable. The RPD made several credibility findings that are independent of the finding that the Applicant failed to establish his identity before the RPD. As such, the credibility findings remained as alternative findings of the RPD to be considered by the RAD on appeal, which performed its own assessment of the evidence and confirmed the decision of the RPD: (see *Siddiqui v Canada (Minister of Citizenship and Immigration)*, 2015 FC 1028 at para 105).

(2) Discussion of Threats with Others

[30] The Respondent cites authorities related to the role of a reviewing Court in assessing the reasonableness of an implausibility finding, particularly as it relates to a negative credibility assessment (see *K.K. v Canada (Citizenship and Immigration)*, 2014 FC 78 at paras 65-66, 69 [*K.K.*]; *Navarrete Andrade v Canada (Citizenship and Immigration)*, 2013 FC 436 at para 14; *Rahal v Canada (Citizenship and Immigration)*, 2012 FC 319 at para 44; *Aguebor v Canada (Minister of Employment & Education)*, [1993] FCJ No 732 (FCA); *Faryna v Chorny* (1951), [1952] 2 DLR 354 (BCCA); *Alizadeh v Canada (Minister of Employment & Immigration)*, [1993] FCJ No 11 (FCA); *Shahamati v Canada (Minister of Employment & Immigration)*, [1994] FCJ No 415 (FCA); *Canada (Citizenship and Immigration) v Abdo*, 2007 FCA 64 at para 12; *Gonzalez v Canada (Minister of Citizenship & Immigration)*, [1999] FCJ No 805 (FCT); *Pathmanapan v Canada (Citizenship and Immigration)*, 2013 FC 763 at para 12). The Respondent argues that the RPD and the RAD were entitled to assess the well-foundedness and credibility of the alleged threats by the Applicant's response to such, including his actions and knowledge as they relate to threats against others doing similar work, having regard to common

sense, rationality, and as measured against the backdrop of country condition evidence and its own understanding of human behaviour and expertise inherent in the conclusion.

[31] The Respondent's position is that the RAD reasonably concurred with the RPD's finding that, had the Applicant been threatened as alleged, it was reasonable to expect that he would have discussed the threats with the full-time and volunteer staff or those who were responsible for administering the NGOs' work. The Respondent submits this is an entirely reasonable inference to draw, as one would expect a person to discuss with the organization their problems resulting from doing the organization's work and, at the very least, to try to ascertain the pervasiveness and seriousness of the threats across the organization.

### (3) Errors with Respect to OMEED Letters

[32] The Respondent acknowledges that the RAD mistakenly considered both OMEED letters to be a single letter based on handwritten translations but submits that nothing determinative turns on this error, and that this does not impugn the overall assessment of the evidence concerning the alleged threats against the Applicant.

### (4) Evidence with Respect to NGO Work and Threats

[33] The Respondent submits that it is trite law that the RAD is not required to mention every piece of evidence in its decision. The Applicant did not provide any evidence to confirm his work for two NGOs for which he claimed to volunteer, i.e. Save the Children and DTCE. With respect to his work for OMEED, the Respondent notes that the RAD considered the OMEED

letters, photos taken of the Applicant at a bi-annual event and his brother's affidavit statement. The Respondent also notes the ANP letter vaguely refers to the Applicant's work for a few NGOs and appears to be based on self-reporting and that the letter from the National Youth Organization is silent on the Applicant's alleged NGO work. The Respondent's position is that these documents cannot be said to be first-hand evidence or sufficient credible and probative evidence of the Applicant's work and resultant threats.

(5) Implausibility of Karachi Incident

[34] The Respondent's position is that it was reasonable for the RAD to conclude that the Applicant's account of the alleged shooting in Karachi was not credible, as reasonable inferences were drawn in reaching this determination. The Respondent notes that the RAD considered the RPD's finding that the Applicant's story concerning the incident in Karachi was not credible and that the RAD then considered the RPD's finding in light of its own assessment of the Applicant's documentary evidence (i.e. the two newspaper articles) and found that these constituted insufficient credible and trustworthy evidence of sufficient probative value to establish the fact of the shooting and its circumstances. In view of the credibility concerns that were not overcome by the newspaper articles, the Respondent argues that the RAD reasonably concurred with the RPD's finding that the Applicant's story concerning the alleged shooting was not credible.

[35] The Respondent also submits that, where a general finding is made that a claimant lacks credibility, that determination is sufficient to dispose of the claim unless there is independent and credible documentary evidence in the record capable of supporting a positive disposition of the claim. The Applicant bears the onus of demonstrating that there is such evidence (see *Canada*

*(Citizenship and Immigration) v Sellan*, 2008 FCA 381 at para 3; *Ogiriki v Canada (Minister of Citizenship and Immigration)*, 2006 FC 342 at para 11; *Waheed v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 329 at paras 41-42). The Respondent says that, taken together and having regard to its general lack of credibility finding, the RAD reasonably determined that the Applicant provided insufficient evidence that he was personally threatened by the Taliban in Swat.

(6) Presumption of State Protection

[36] The Respondent notes that the RAD reasonably doubted that the Applicant required state protection and submits that, given it is the Applicant who bears the burden of establishing a need for state protection, this finding is determinative of the state protection issue.

(7) Applicant's Immigration History

[37] In relation to the Applicant's submission that the RAD placed undue weight on the Applicant's immigration history, the Respondent notes that the weight of evidence is within the RAD's purview. The Respondent says the RAD was entitled to consider the Applicant's immigration history and to give it significant weight as it relates to the Applicant's general credibility. The Respondent contends that the RAD reasonably drew a negative general credibility inference from the Applicant's misrepresentations, especially given that the Applicant had no apparent reason to fail to provide the complete truth to Canadian immigration authorities. The Respondent refers to Federal Court jurisprudence to the effect that the cumulative impact of issues peripheral to a claimed well-founded fear of persecution can support the rejection of the



claim where they reveal an overarching pattern of deception by the Applicant, which taints the credibility of the entire claim (see *Naeem v Canada (Citizenship and Immigration)*, 2014 FC 1134 at para 14; *Karakaya v Canada (Citizenship and Immigration)*, 2014 FC 777 at para 33; *Manoharan v Canada (Minister of Citizenship and Immigration)*, 2003 FC 871 at paras 7-14; *Li v Canada (Citizenship and Immigration)*, 2012 FC 998 at para 17; *Leung v Canada (Minister of Employment & Immigration)*, [1993] FCJ No 685 (FCA); *Feng v Canada (Citizenship and Immigration)*, 2010 FC 476 at para 13; *Sheikh v Canada (Minister of Employment & Immigration)*, [1990] FCJ No 604 (FCA).

## VI. Analysis

[38] For the reasons that follow, my conclusion is that, viewed as a whole, the RAD's decision is a reasonable one and demonstrates the necessary independent assessment of the evidence before it, which supports conclusions that are intelligible and transparent.

### A. *Events in Swat*

[39] With respect to the RAD's findings surrounding his association with the NGOs and the threats he allegedly received in Swat, I disagree with the Applicant's position that it was speculative for the RAD to concur with the RPD's finding that it was reasonable to expect the Applicant would have discussed the alleged threatening calls with others at the NGOs. While the Applicant points out that he testified that he had no direct contact with full-time NGO workers, the RAD noted this testimony and his evidence that he was unaware if any of these workers had

received threatening calls. The RAD did not overlook the evidence in reaching its conclusion on this point and I cannot conclude its finding to be unreasonable.

[40] However, the Applicant is correct, and the Respondent acknowledges, that the RAD made errors in its references to the documentary evidence related to the NGOs and alleged threats in Swat. The Applicant argues that the RAD referred to there being one letter from OMEED, when there were in fact two letters, and mistakenly referred to the handwritten letter from the National Youth Organization as being from OMEED and misstated its date. The RAD also failed to mention a letter from the ANP that referred to the Applicant volunteering with NGOs and having told the ANP that he had been threatened.

[41] I accept that these were errors on the part of the RAD. I include in that finding a conclusion that the letter from the ANP was overlooked. I appreciate that a board such as the RAD is presumed to have reviewed all the evidence and need not refer to every piece of evidence that was submitted (see *Kandha v Canada (Citizenship and Immigration)*, 2016 FC 430 at para 16). However, I conclude the RAD overlooked the ANP letter on the basis that the RAD listed the corroborating documentation concerning the Applicant's association with the three NGOs but failed to mention this letter, notwithstanding that it refers to his volunteer work.

[42] Nevertheless, I do not consider the errors described above to be sufficiently significant to undermine the reasonableness of the RAD's decision. The RAD concluded that the Applicant provided insufficient evidence to establish that he had been threatened by the Taliban. With respect to the documentary evidence related to the NGOs, I read the RAD's reasoning to be that

it was a product of self-reporting by the Applicant. The Applicant argues that this is incorrect in that the only letter that expressly refers to the author having been told by the Applicant about the threats is the one from the ANP. However, none of the other letters from the NGOs attest to any basis for first-hand knowledge of the threats allegedly received by the Applicant. I therefore cannot conclude the RAD's confusion surrounding the OMEED and National Youth Organization letters to be material to its decision. Nor is the failure to mention the second OMEED letter material, as it does not speak to the threats at all.

[43] The Applicant also argues that, even if the letters are based on self-reporting, this is not a valid basis to refuse to give them any corroborative weight. I accept that the RAD might have treated the fact that the Applicant reported threats to the NGOs as corroborative of his testimony. However, the RAD is entitled to deference on the weight it chose to give this evidence and, as the corroborative evidence is not independent of the Applicant, I cannot conclude the RAD's finding on this point is unreasonable.

[44] With respect to the other documentary evidence relevant to the alleged threats received in Swat (i.e. the written statement made by the Applicant to a Station House Officer, his brother's affidavit, and the photographs depicting the Applicant's activities in support of female education in Pakistan), the RAD refers to the Applicant's submission that the RPD failed to assign probative value to this documentation and subsequently refers to having reviewed all of the evidence, including the pictures and the evidence of his brother. I therefore cannot conclude the RAD failed to take this evidence into account.

[45] While the Applicant notes that the RAD incorrectly refers to the affidavit from his brother as a letter, the RAD correctly referred to it as an affidavit earlier in the decision. I therefore do not find the RAD erred by misunderstanding the nature of the document. The Applicant also observes that his statement to a Station House Officer was not mentioned again by the RAD after it referred to the Applicant's submissions. However, this is another example of the Applicant's self-reporting, and it is apparent from the RAD's reasons, in relation to the events in Swat and the later events in Karachi (as discussed below), that it was not prepared to treat this sort of evidence as sufficiently corroborative of the Applicant's credibility.

B. *Events in Karachi*

[46] Turning to the events in Karachi, the RAD considered the newspaper reports of the alleged shooting and noted that the RPD failed to do so but, again, the RAD did not view the reports as sufficiently corroborative of the Applicant's evidence because they were based on self-reporting.

[47] As with the RAD's analysis surrounding the documentary evidence related to the events in Swat, its decision as a whole demonstrates the RAD's concern with the Applicant's credibility and that it was not prepared to afford any significant weight to evidence that was not independent of the Applicant. This concern is demonstrated in particular by the following findings by the RAD, that it concluded raised a serious doubt as to the Applicant's general credibility:

- A. He resided in the U.K. between 1993 and 1996, without claiming protection, and then asserted a claim which was rejected because of lack of corroboration;

- B. He testified that he applied for a U.S. non-immigrant visa in 2007 because he feared the Taliban but he made no mention in his BOC of any risk from the Taliban until 2013; and
- C. He misrepresented himself to both U.S. and Canadian authorities. In connection with his Canadian claim, he falsely stated that he had never used any other name and that he had never been refused refugee status by any other country.

[48] These general credibility findings impacted the RAD's overall assessment of the Applicant's trustworthiness. Against this backdrop, I cannot conclude the RAD acted unreasonably in its approach to the corroborating documents.

[49] The Applicant also argues the RAD's conclusion, that the Applicant's story about the alleged shooting in Karachi was neither credible nor trustworthy, was the product of an impermissible implausibility finding on the basis that it strained credulity that the Taliban would be able to track the Applicant down in Karachi, a city of 15 million people 2500 km away from Swat. The Applicant submits that this finding is outside the sort of analysis permitted by *Valtchev* and refers to the decision of Justice Mosely in *Santos v Canada (Minister of Citizenship and Immigration)*, 2004 FC 937 at para 15, in which it was held that implausibility findings must be based on clear evidence, as well as a clear rationalization process.

[50] The Applicant submits that the RAD erred, in making its implausibility finding regarding the alleged shooting incident in Karachi, by failing to consider the documentary evidence which

speaks to the pervasiveness of the Taliban's network. While the RAD does not cite the documentary evidence, its reasons state that it reached its conclusion about the Taliban "in spite of its alleged network". It therefore cannot be concluded that this point was overlooked by the RAD. I do not consider the RAD's finding to be unsupported by the evidence or without a clear rationalization process. In so finding, I note that the RAD did not reject the Applicant's testimony solely based on its implausibility analysis but also considered the documentary evidence in support of the alleged shooting as it found the RPD should have done. However, it noted the Applicant's testimony that he was alone on the road when the alleged incident occurred and, as explained above, it concluded that there was a lack of corroborative evidence. I do not find the RAD's overall analysis of this alleged incident to be unreasonable.

C. *Presumption of State Protection*

[51] On the issue of the presumption of state protection, I agree with the Respondent that it was reasonable for the RAD, having reached the conclusion it did with respect to the alleged threatening phone calls, to conclude that it was doubtful the Applicant required police protection. There was no need for the RAD to perform further analysis of this issue. While the Applicant argues that "doubtful" falls short of a finding on this issue, I again agree with the Respondent that, given the Applicant bears the burden of establishing his claim, the RAD's finding is sufficient for it to have discharged its mandate as an appeal tribunal.

VII. Conclusion

[52] I find the RAD's decision as a whole to be reasonable and within the range of possible, acceptable outcomes. As such, this application for judicial review must be dismissed.

[53] The parties proposed no question of general importance for certification for appeal, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

No question is certified for appeal.

“Richard F. Southcott”

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Judge



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

**DOCKET:** IMM-5233-15

**STYLE OF CAUSE:** MUHAMMAD NASIM v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** JUNE 1, 2016

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**DATED:** JULY 18, 2016

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