

Federal Court



Cour fédérale

**Date: 20180213**

**Docket: IMM-2821-17**

**Citation: 2018 FC 165**

**Ottawa, Ontario, February 13, 2018**

**PRESENT: The Honourable Madam Justice McDonald**

**BETWEEN:**

**YOUSEF ALIZADEHVAKILI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant is an Iranian citizen and seeks judicial review of a decision of the Refugee Protection Division [RPD] which dismissed his claim for protection under ss. 96 and 97 of the *Immigration and Refugee Protection Act* [IRPA]. The RPD found that there was no credible basis to the Applicant's claim.

[2] For the reasons set out below, this judicial review application is dismissed.

I. Background

[3] The Applicant claims that as a young man in Iran he supported a dissident organization known as the “Muslim People’s Party.” He claims to have been arrested for six days in 1980, and another 45 days in 1986.

[4] The Applicant claims to have ceased his political activities after the leader of the Muslim People’s Party died and the son of the leader of the Muslim People’s Party went into exile in Germany. Sometime later, the Applicant met an old friend at a party and was reacquainted with a group led by the son (referred to by the RPD as the “Alleged Dissident Group.”) The Applicant alleges that following this meeting, he began to provide financial assistance to the Alleged Dissident Group on a monthly basis.

[5] In the summer of 2016, the Applicant came to visit Canada. Just before leaving Iran, he claims to have been asked by someone from the Alleged Dissident Group to take possession of a package for an upcoming demonstration. He was told someone would pick up the package from him. According to the Applicant, the package was not picked up and he left the package in his home office.

[6] In August 2016, while he was in Canada, the Applicant states that he was notified that the police raided his home in Iran, found the package and issued a warrant for his arrest. This formed the basis for the Applicant’s claim for refugee status in Canada.

II. Decision Under Review

[7] In the decision dated May 29, 2017 the RPD found that the determinative issue was the Applicant's credibility in relation to four issues: (1) the existence of the Muslim People's Party; (2) how the Applicant became a financial supporter of the Alleged Dissident Group (3) how his donations were to be used; and (4) whether he was coerced or volunteered to take possession of the package.

[8] On the first issue, the RPD found that there was no objective evidence in the record that the Alleged Dissident Group exists, and therefore concluded that it did not exist.

[9] On the second issue, the RPD noted that in his Basis of Claim [BOC] form the Applicant stated that he was asked to provide financial support. However, in testimony at the hearing, he claimed that he raised the idea of becoming a financial supporter. The RPD noted that the claimant's explanation of this inconsistency was not responsive, and it therefore drew a negative credibility finding on this issue.

[10] On the third issue, in his BOC form, the Applicant noted that the purpose of the monetary donations was to "financially support the Iranian political opposition abroad." However, during questioning at the hearing, he claimed that the purpose of the money was to support the families of imprisoned members of the Alleged Dissident Group located in Iran; and then claimed that he had no knowledge of the purpose for which the funds were to be used. The RPD drew a negative credibility inference from the Applicant's inconsistency on these answers.

[11] On the fourth issue, in his BOC, the Applicant claimed that he “agreed to hold the package.” In his testimony, he claimed that he was coerced. The RPD found that the Applicant “did not have a coherent response” to this inconsistency, and found that the Applicant was not holding any package as alleged.

[12] Based on the cumulative credibility findings, the RPD found that the Applicant’s claim had no credible basis and rejected his claims under ss. 96 and 97 of the IRPA.

### III. Issue

[13] The only issue on this judicial review is if the decision of the RPD is reasonable in relation to the credibility findings.

### IV. Standard of Review

[14] The standard of review for the RPD’s decision in this case is reasonableness (*Zhu v Canada (Citizenship and Immigration)*, 2017 FC 519 at para 8).

### V. Analysis

#### A. *Alleged Dissident Group*

[15] The Applicant argues that the RPD finding that the Alleged Dissident Group does not exist is not reasonable as a simple Google search by the RPD would have proven otherwise.

Furthermore the Applicant argues that it is unreasonable for the RPD to expect him to be able to provide evidence of a covert, dissident group.

[16] However, in a refugee claim, the onus is on the Applicant to offer all evidence necessary in support of an application (*Barre v Canada (Citizenship and Immigration)*, 2017 FC 1091 at para 20).

[17] In this case, the Applicant cannot add to the record after-the-fact with Google searches to supplement the lack of evidence before the decision-maker (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13-28).

[18] As the onus is on the Applicant, the failure of the Applicant to discharge the onus can support a negative credibility finding, especially where the documentary evidence fails to mention what one would expect it to mention (*Adu v Minister of Employment and Immigration*), [1995] FCJ No 114 (FCA)).

[19] The RPD concluded that, in absence of any objective evidence about the Alleged Dissident Group, that the group did not exist and therefore used that finding to impugn the Applicant's credibility. It did not err in doing so.

B. *Financial Support*

[20] The RPD noted the inconsistency in the Applicant's testimony regarding how he came to donate money to the Alleged Dissident Group. In his BOC, he claimed he was asked to make donations; in his oral testimony, he claimed he offered the financial support.

[21] On review this Court takes a highly deferential approach to credibility findings made by the RPD (*Hohol v Canada (Citizenship and Immigration)*, 2017 FC 870 at para 18 [*Hohol*]).

[22] The RPD is entitled to rely on the contradictions between oral testimony and written documents, as in this case, to make negative credibility findings (*Liu v Canada (Citizenship and Immigration)*, 2012 FC 440 at para 14).

[23] The RPD similarly drew an adverse credibility inference from inconsistencies in the Applicant's story regarding his understanding of the use of the financial support he provided to the Alleged Dissident Group.

[24] Here, the RPD considered the Applicant's explanation that there may have been a translation error in the BOC, but found it unresponsive. This inconsistency, which the RPD is entitled to note, goes to whether the Applicant voluntarily associated himself or not with the Alleged Dissident Group. This goes to the very merit of the Applicant's claim, and was appropriately noted by the RPD.

[25] As above, the RPD is entitled at law to draw such inferences. Here, the inconsistency was genuine as between the written and oral evidence. There is no basis for the Court to intervene.

C. *The Package*

[26] The Applicant argues that the evidence of the Iranian police raid on his home and the police finding the package was given no weight by the RPD. He argues that this was unreasonable. The Applicant argues that the RPD erred by failing to reasonably assess a letter from his son confirming the police raid, and he argues that the RPD unreasonably conflated its general credibility findings into a no credible basis determination.

[27] The RPD drew negative credibility inferences from the inconsistencies in the Applicant's written and oral testimony. In the BOC, the Applicant claimed that he agreed to hold the package, because he trusted the individual who asked him to do so. At the hearing, the Applicant testified that he was coerced into doing so.

[28] This was a core element of the claim relating to his alleged forward-looking risk of persecution and in fact was the event which allegedly caused the police to raid his home in Iran.

[29] The RPD is in a unique position to assess credibility and the significance of inconsistencies in important matters and draw conclusions accordingly (*Hohol*, at para 18; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 46).

[30] The RPD was entitled to consider this inconsistency on the core element of the claim and draw a negative credibility finding accordingly. This court must respect this finding.

D. *No Credible Basis*

[31] Based on all of the negative credibility findings, the RPD concluded that the Applicant's claim lacked a credible foundation. The test for a "no credible basis" finding is set out in *Rahaman v Canada (Minister of Citizenship and Immigration)*, 2002 FCA 89 at para 52

[*Rahaman*]:

In the absence of any credible or trustworthy evidence on which each Board member could have determined that the claimant was a Convention refugee, a finding that the claimant was not a credible witness will justify the conclusion that the claim lacks any credible basis.

[32] The existence of some credible or trustworthy evidence will not preclude a no credible basis finding if that evidence is insufficient in law to sustain a positive determination of the claim: *Rahaman*, at para 30.

[33] Here, the no credible basis finding was based upon the cumulative credibility findings made by the RPD. That is permitted by *Rahaman*.

[34] Further, the RPD discounted the truth of the son's letter, in part because of these credibility findings. A general finding of a lack of credibility based on these inconsistencies can extend to all relevant evidence provided by an applicant (*Lawal v Canada (Citizenship and Immigration)*, 2010 FC 558).



[35] In this case, the RPD doubted the evidence of the son, and the evidence of the son alone could not sustain a positive determination of the claim in conjunction with the adverse credibility findings. Accordingly there are no demonstrated grounds for this court to intervene with the findings of the RPD.

[36] This judicial review is therefore dismissed.

**JUDGMENT in IMM-2821-17**

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

1. This judicial review is dismissed.
2. There is no question of general importance certified.

"Ann Marie McDonald"

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Judge

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

**DOCKET:** IMM-2821-17

**STYLE OF CAUSE:** YOUSEF ALIZADEHVAKILI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JANUARY 11, 2018

**JUDGMENT AND REASONS:** MCDONALD J.

**DATED:** FEBRUARY 13, 2018

**APPEARANCES:**

Mr. John Cintosun FOR THE APPLICANT

Ms. Nicole Paduraru FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Barrister and Solicitor FOR THE APPLICANT  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario