

Federal Court



Cour fédérale

Date: 20220316

Docket: IMM-5530-20

Citation: 2022 FC 330

Ottawa, Ontario, March 16, 2022

PRESENT: Mr Justice James W. O'Reilly

BETWEEN:

MAZIN ABD ALAZIM SULIMAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Mazin Abd Alazim Suliman was born in Saudi Arabia to Sudanese parents and is a citizen of Sudan. He arrived in Canada as a permanent resident with his mother and siblings as a child in 2002. In 2013, he was convicted of robbery and found to be inadmissible to Canada for serious criminality. In 2015, he received a deportation order. He then filed an application for a pre-removal risk assessment (PRRA), which was denied in 2018. He filed a second PRRA,

which was denied in 2020 because he failed to show either that he would experience persecution in Sudan on a ground recognized under the Refugee Convention or that he would face a personal risk there.

[2] On this application for judicial review of the second PRRA decision, Mr Suliman argues that the decision was unreasonable because the officer construed the concept of political opinion too narrowly, misapplied the test for state protection, and failed to take proper account of relevant evidence in Mr Suliman's favour.

[3] In my view, the officer's decision was reasonable; it took account of Mr Suliman's personal political profile, did not misapply the test for state protection, and adequately addressed the relevant evidence. Accordingly, for the reasons that follow, this application for judicial review is dismissed.

[4] There are three issues:

1. Did the officer construe the concept of political opinion too narrowly?
2. Did the officer misapply the test for state protection?
3. Did the officer fail to take proper account of relevant evidence?

II. The Officer's Decision

[5] The officer began by summarizing Mr Suliman's circumstances and the previous PRRA decision. The officer determined that fresh country condition evidence was admissible as it depicted changes in Sudan that had taken place since Mr Suliman's previous PRRA application.

[6] After setting out Mr Suliman's submissions, the officer cited the most recent United States travel advisory for Sudan, which reflected a change from a Level 4 advisory (Do Not Travel) to a Level 3 (Reconsider Travel).

[7] The officer noted that Mr Suliman was described by counsel as an ethnic African (not Arabic) who proudly wore an Afro and was not afraid to express his opinions. Counsel also submitted that Mr Suliman was likely to stand out in Sudan because he is not fluent in Arabic and does not adhere to the cultural and religious norms that prevail there.

[8] The officer referred to an incident in which Sudanese soldiers had fired on protesters opposed to Sudan's military rule. However, the officer stated that the documentary evidence provided no reason to believe that authorities in Sudan would perceive Mr Suliman to be a political protestor. Further, recent peaceful protests were not met with state violence.

[9] The officer went on to consider whether Sudanese authorities would perceive Mr Suliman to be an apostate and a social threat as a recent returnee to Sudan, and a "free-thinking non-

practicing Muslim” with liberal views on many subjects – someone who drinks alcohol, enjoys Western music, is clean-shaven, and dresses in Western clothing.

[10] The officer noted that most of the documentary evidence on which counsel relied for this aspect of Mr Suliman’s application was published by a non-profit US Christian organization devoted to addressing the persecution of Christians. The officer found the source to be “non-partial” (I assume the officer meant “not impartial”) and gave the evidence little weight. The officer also considered an article published on the website of the French public broadcaster France24. The officer gave it low probative value because it was poorly written, based on unnamed sources, and of unknown authorship.

[11] The officer also cited a 2018 US Department of State report that recounted incidents of flogging and other mistreatment of persons considered to be dressed inappropriately or found to be consuming alcohol. However, the officer noted that a change of government had occurred in 2019 and that circumstances in Sudan had improved. The officer cited 2020 reports from Human Rights Watch in which Sudanese officials were described as being committed to ensuring real reforms and bringing to justice those responsible for previous misconduct, including before the International Criminal Court. Other positive indications included abolishing the offence of apostasy and repealing other repressive laws.

[12] The officer concluded from these recent reports that Mr Suliman faced no more than a mere possibility of political or religious persecution in Sudan; therefore, he had not proved a nexus to a ground of persecution recognized by the Refugee Convention. Further, the officer

found that Mr Suliman had not provided sufficient evidence to show that he would be personally at risk in Sudan of torture or other serious mistreatment or punishment.

III. Issue One – Did the officer construe the concept of political opinion too narrowly?

[13] Mr Suliman maintains that the officer confined the analysis to Sudan's treatment of political protestors and failed to consider the possibility of political persecution more broadly. As mentioned, the officer recognized that political protestors were at risk but found that there was little evidence to show that Mr Suliman was a political protestor. In addition, says Mr Suliman, the officer neglected to consider the political opinions that might be attributed to him by Sudanese authorities based on his past and present behaviour and characteristics.

[14] I disagree.

[15] In my view, the officer did not confine the analysis to the treatment of political protestors. True, the officer noted that aggressive political protestors were susceptible of mistreatment and that peaceful protests were now more tolerated. However, the officer also considered the possibility that Mr Suliman would be persecuted or mistreated because of his non-Muslim, Western-leaning profile. The officer found that the repressive laws that resulted in the mistreatment of similarly-situated persons had been abolished and that there was little evidence suggesting that returnees from Western countries were targeted. I can see nothing unreasonable in the officer's analysis or conclusion.

IV. Issue Two – Did the officer misapply the test for state protection?

[16] Mr Suliman points to the officer's discussion of the recent progress being made in Sudan and submits that the officer failed to apply the proper test for state protection. The question, he says, is not whether the state is making improvements in the right direction; it is whether actual protection is available to persons in his particular circumstances.

[17] I agree with Mr Suliman's general proposition. As I have stated elsewhere:

[E]vidence of a state's efforts does not help answer the main question that arises in cases of state protection – that is, looking at the evidence as a whole, including the evidence relating to the state's capacity to protect its citizens, has the claimant shown that he or she likely faces a reasonable chance of persecution in the country of origin? To answer that question, the Board had to decide whether the evidence relating to the state resources actually available to the applicants indicated that they would probably not encounter a reasonable chance of persecution if they returned to Hungary (*Moczó v Canada* (Citizenship and Immigration), 2013 FC 734 at para 10).

[18] Here, however, as I read the officer's decision, state protection was not actually in issue. The officer's reference to recent improvements in Sudan was not meant to suggest that the persecution that Mr Suliman might experience there would be mitigated by the intervention of state officials. Rather, it was part of the officer's reasons for concluding that Mr Suliman was unlikely to experience persecution in Sudan.

[19] If the officer had found that Mr Suliman faced a risk of persecution in Sudan, the officer could have gone on to consider whether state protection was available to insulate him from that risk (the burden being on Mr Suliman to show that state protection was absent). Or, a finding of state protection could have provided an alternative basis for the officer's finding that Mr Suliman's PRRA application should not succeed. But neither was present here. The officer

simply concluded that that there was insufficient evidence to show that Mr Suliman faced more than a mere possibility of political or religious persecution in Sudan, or that he would be personally at risk of torture or other serious mistreatment or punishment.

[20] Again, I see nothing unreasonable in the officer's analysis or conclusion.

V. Issue Three – Did the officer fail to take proper account of relevant evidence?

[21] Mr Suliman contends that the officer unreasonably discounted relevant documentary evidence showing the risks that he would face in Sudan.

[22] I agree with Mr Suliman that the officer's reasons for giving low weight to the Christian organization's publications and the France24 article are rather opaque. I note, however, that the officer did not discount them entirely or find them inadmissible. Rather, the officer chose to give greater weight to more recent, detailed reports of Human Rights Watch, which post-dated the change of government. The officer's choice to rely more heavily on the latter reports was not unreasonable.

[23] Mr Suliman also submits that the officer unreasonably relied on the change in the recent US travel advisory for Sudan, which lowered the classification from Level 4 (Do Not Travel) to Level 3 (Reconsider Travel), instead of citing the Canadian travel advisory, which had not changed.

[24] In my view, the officer was entitled to take note of the change in the US travel advice as reflecting a slight improvement in the situation in Sudan. The Canadian advisory stated that non-essential travel to Sudan should be avoided, and that certain areas of Sudan should be avoided entirely. The two advisories are not substantially different. Further, the officer stated specifically that the Canadian advisory had been considered.

[25] I can find nothing unreasonable in the officer's treatment of the documentary evidence.

VI. Conclusion and Disposition

[26] The officer's analysis and treatment of the evidence was not unreasonable. Therefore, I must dismiss this application for judicial review. Neither party proposed a question of general importance for certification, and none is stated.

JUDGMENT IN IMM-5530-20

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5530-20

STYLE OF CAUSE: MAZIN ABD ALAZIM SULIMAN v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HEARING HELD BY VIDEOCONFERENCE IN
TORONTO, ONTARIO

DATE OF HEARING: JANUARY 24, 2022

JUDGMENT AND REASONS O'REILLY J.

DATED: MARCH 16, 2022

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