

Federal Court



Cour fédérale

**Date: 20220527**

**Docket: IMM-5923-21**

**Citation: 2022 FC 764**

**Ottawa, Ontario, May 27, 2022**

**PRESENT: The Honourable Madam Justice Aylen**

**BETWEEN:**

**JALIL NIKKHOO**

**Applicant**

**and**

**THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, a 56-year-old citizen of Iran, seeks judicial review of the Applicant's Pre-Removal Risk Assessment [PRRA] dated July 20, 2021. In the decision under review, the PRRA Officer determined that, as a result of his conversion to Christianity, the Applicant faces no more than a mere possibility of persecution based on any of the Convention grounds if returned to Iran and that there was insufficient evidence before them to conclude that he more likely than not faces a risk to life, of cruel and unusual treatment or punishment, or a danger of torture in Iran. The

Applicant was found to be neither a Convention refugee nor a person in need of protection as defined by either section 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The Applicant asserts that the PRRA Officer's decision was unreasonable on the basis that: (a) there was no analysis of the discrimination that the Applicant would face if he chose to publicly practice Christianity and failed to appreciate the significance to the Applicant's basic rights that he would be unable to practice his religion as he chose; (b) the PRRA Officer failed to appreciate the risk of persecution due to apostasy by improperly assuming that the Applicant would become a "hidden Christian" and thus making his risk of being charged under apostasy minimal; (c) there was a lack of acknowledgment of the Applicant's relationship with Global Christian Ministries, which relationship could bring unwanted attention to the Applicant; and (d) the PRRA Officer failed to appreciate that the Applicant will become immediately known to the Iranian authorities upon entry as his passport is expired and he has not been in the country since 2016.

[3] For the reasons that follow, I find that the PRRA Officer's decision was reasonable and accordingly, the application for judicial review shall be dismissed.

#### **I. Background and Decision at Issue**

[4] The Applicant entered Canada on March 8, 2016 using an improperly obtained temporary resident visa. Shortly after his arrival, the Applicant applied for refugee protection and claimed he feared persecution from the Iranian government because of his religious beliefs – namely, for being a follower of the Erfan Keyhani movement (also known as Interuniversalism).

[5] The RPD considered the evidence and submissions that the Applicant presented in support of his claim and found, not only that the Applicant lacked credibility, but also that he was not a genuine follower of the Erfan Keyhani belief system. The RPD rejected the Applicant's claim on July 21, 2016.

[6] The Applicant appealed the RPD's decision to the RAD and submitted new evidence in support of his claim. However, the RAD determined that one of the documents from Iran (the court summons) was fraudulent and the other document (a letter from the Canadian Council for Victims of Torture) was of little probative value. The RAD agreed with the RPD's negative credibility findings against the Applicant and consequently rejected the Applicant's appeal on February 7, 2017. The Applicant sought leave to judicially review the RAD's decision, but leave was denied.

[7] On July 17, 2019, the Applicant made a PRRA application. The Applicant submitted that following the refusal of his refugee claim, he converted to Christianity and now fears persecution as a practicing Christian if he returns to Iran. The Applicant submitted that he would be unable to practice Christianity openly in Iran for fear of being found out and that apostasy (the conversion from Islam to another faith) is punishable by death in Iran. In support of his application, the Applicant submitted new evidence, namely: (a) two letters, one from a church elder and another from the Reverend of his church, which stated that the Applicant has been attending church since 2017 (Persian Monday night Bible study and Sunday services), has been baptized, is well respected by the church family and volunteers to help out at the church's Sunday service and events; (b) his baptismal certificate; (c) photographs of himself being baptized and attending church; and (d) two

country condition documents discussing the situation of Christians in Iran (one brief news article and one document prepared by UK Members of Parliament).

[8] The PRRA Officer accepted that the Applicant has been attending church in Canada and that he has been baptized. The PRRA Officer considered the country condition documents submitted by the Applicant and conducted their own independent research regarding the situation of Christian converts in Iran. The PRRA Officer accepted that some Christians face mistreatment in Iran, and that this mistreatment can sometimes be more severe for former Muslims who have converted to Christianity. However, the PRRA Officer noted that the treatment of all Christian converts in Iran is not uniform and that activities such as proselytising, recruiting others, worshipping openly, studying theology, possessing a library of Christian literature, holding discipleship classes, hosting or sometimes attending house churches, having contact with Christian organizations and attending Christian conferences and seminars can attract greater attention of the Iranian authorities. The PRRA Officer found that the Applicant had not indicated he would take part in any such activities.

[9] The PRRA Officer considered the Applicant's argument that he would be unable to practice Christianity openly in Iran and would fear being found out, as apostasy is punishable by death in Iran. The PRRA Officer noted that according to the UK Home Office, only on very rare occasions have Christian converts been charged with apostasy and that there has only been one official execution of a Christian on charges of apostasy in Iran, which took place in 1990. The PRRA Officer found there was little evidence on file to suggest that Christians are regularly executed for apostasy. Furthermore, the PRRA Officer found that the country condition documents indicated

that Christian converts are unlikely to face scrutiny from the authorities upon returning to Iran if they are not being sought, and do not engage in proselytization or other political activities within Iran.

[10] The PRRA Officer found that, although the Applicant submitted that he previously had an arrest warrant against him in Iran, he had not rebutted the IRB's finding that the Iranian authorities were not interested in him, or the finding that his arrest warrant was false. Moreover, the Applicant did not suggest that he planned on proselytising in Iran, had not established that the Iranian authorities were looking for him for any reason, and did not suggest that he planned on participating in political activities upon returning to Iran. Additionally, the PRRA Officer found the Applicant had not suggested that he would be unable to practice Christianity independently or in a small, private house church. The PRRA Officer recognized that the country condition documentation suggested that the Applicant could face discrimination and be unable to practice Christianity openly, but as he had not stated that he would be unable to practice privately, the PRRA Officer found that the discrimination he could face did not amount to persecution. As a result, the PRRA Officer found that that the Applicant did not demonstrate that he faced more than a mere possibility of risk under section 96 of the *IRPA* due to his religious beliefs.

[11] In relation to section 97 of the *IRPA*, the PRRA Officer stated that a person in need of protection must demonstrate, on a balance of probabilities, that removal to his country of origin will subject him personally to the harm feared, and found that the documentary evidence adduced by the Applicant was not sufficient, nor had the Applicant named any specific person or group who was seeking to harm him upon returning to Iran. Therefore, the PRRA Officer found that the

Applicant did not face a risk to life, or of cruel and unusual treatment or punishment, or a danger of torture as defined by section 97 of the *IRPA*.

## **II. Analysis**

[12] The sole issue for determination is whether the PRRA Officer's decision was reasonable.

[13] Reasonableness is the presumptive standard of review of the merits of an administrative decision. None of the circumstances warranting a departure from this presumption arise in this case [see *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 25]. When reviewing for reasonableness, the Court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Vavilov, supra* at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adenijj-Adele v Canada (Minister of Citizenship and Immigration)*, 2020 FC 418 at para 11].

[14] Before turning to the arguments raised by the Applicant, it is important to recall that the determination by PRRA officers of risk on return to a particular country is a "fact-driven inquiry" and this determination attracts considerable deference. In *Yousef v Canada (Minister of Citizenship and Immigration)*, 2006 FC 864, Barnes J. held:

19 It bears repeating in this case that considerable deference is owed to the factual determinations made by the PRRA officer including her conclusions with respect to the proper weight to be accorded to the evidence placed before her. This point was made by Justice Edmond Blanchard in *Selliah v. Canada (Minister of Citizenship and Immigration)*, [2004] F.C.J. No. 1134, 2004 FC 872 where he stated at paragraph 16:

16 PRAA officers have a specialized expertise in risk assessment. Their findings are usually fact driven and, in my view, warrant considerable deference from a reviewing Court.

In *Augusto v. Canada (Solicitor General)*, [2005] F.C.J. No. 850, 2005 FC 673, the same point was made by Justice Carolyn Layden-Stevenson at paragraph 9:

9 In my view, in substance, this argument goes to the weight the officer assigned to the evidence. In the absence of having failed to consider relevant factors or having relied upon irrelevant ones, the weighing of the evidence lies within the purview of the officer conducting the assessment and does not normally give rise to judicial review. Here, the reasons reveal that the PRRA officer did consider the evidence tendered by Ms. Augusto, but gave it little weight. There was nothing unreasonable about the officer having done so.

[15] The Applicant asserts that the PRRA Officer failed to conduct an analysis of the discrimination that the Applicant would face if he chose to publicly practice Christianity and failed to appreciate the significance to the Applicant's basic human rights that he would be unable to practice his religion as he chose. Moreover, the Applicant asserts that the PRRA Officer failed to appreciate the risk of persecution due to apostasy by improperly assuming that the Applicant would become a "hidden Christian" and thus making his risk of being charged under apostasy minimal.

[16] A key difficulty with the Applicant's PRRA application is that he included no evidence as to how he planned to practice Christianity in Iran. The only evidence that was before the PRRA Officer was evidence regarding how the Applicant currently practices his religion in Canada. In the circumstances, I find that it was reasonable for the PRRA Officer to consider the risk to the Applicant in Iran essentially on the assumption that the Applicant would practice his religion in a similar manner to how he practices in Canada.

[17] After analyzing the available country condition documents, the PRRA Officer concluded that the religious activities in which the Applicant is currently engaged did not fall within those activities enumerated in the country condition documents that would attract greater attention from the Iranian authorities, and thus put the Applicant at greater risk. This, coupled with the fact that there was no evidence that the Applicant's Christianity was known to anyone in Iran and the fact that there was no evidence that the Iranian authorities were interested in the Applicant, led the PRRA Officer to conclude that the Applicant faced no more than a mere possibility of risk if he returned to Iran. The Applicant disagrees with this conclusion, arguing that a proper interpretation of the country condition documents support his assertion that the Applicant's current activities, if conducted in Iran, would attract greater attention, asserting that his weekly bible study group constitutes "studying theology" and that his Sunday church services constitute "religious gatherings", as such terms are used in the country condition documents.

[18] There is a clear disagreement between the parties as to whether the Applicant's current religious activities fall within the enumerated higher-risk activities set out in the country condition documents. PRRA officers have a specialized expertise in conducting risk assessments, which



includes considering and interpreting country condition documents, and their determinations are entitled to considerable deference. In the circumstances and in the absence of any suggestion that the PRRA Officer failed to consider any specific evidence that was before them, I am satisfied that the PRRA Officer's determination that the Applicant's current religious activities, if conducted in Iran, would not fall within those that would attract greater attention of the Iranian authorities was reasonable.

[19] The Applicant also asserts that the PRRA Officer failed to acknowledge the Applicant's relationship with Global Christian Ministries. Having recognized that being part of a Christian organization and studying theology can bring greater attention to a Christian in Iran, the Applicant asserts that the PRRA Officer should have accepted that the Applicant's relationship with Global Christian Ministries could bring unwanted attention to the Applicant.

[20] I reject this assertion. The country condition documents cite "having contact with Christian organizations" as one of the enumerated activities that can put a Christian at risk in Iran. However, the evidence before the PRRA Officer was that Global Christian Ministries is the name of the church that the Applicant attends, not a separate organization with which the Applicant was involved. Accordingly, I find that the PRRA Officer's determination that the Applicant did not have contact with Christian organizations was reasonable.

[21] Finally, the Applicant asserts that the PRRA Officer failed to appreciate that the Applicant will become immediately known to the Iranian authorities upon entry as his passport is expired and he has not been in the country since 2016. As a result, the Applicant asserts that it will be

difficult for the Applicant to keep a low profile. However, the Applicant did not raise this as an issue that impacted his risk in his PRRA application submissions, nor was it independently raised by the PRRA Officer. It is therefore not open to the Applicant on this application for judicial review to criticize the PRRA Officer for failing to address this alleged difficulty and potential risk to the Applicant. As such, I will not entertain this submission.

### **III. Conclusion**

[22] For the reasons set out above, I find that the PRRA Officer's decision is transparent, intelligible and justified in relation to the facts and applicable legal principles and that the Applicant has failed to identify any shortcoming in the PRRA Officer's reasons. Accordingly, this application for judicial review shall be dismissed.

[23] The parties have not raised a question for certification and I agree that none arises.

**JUDGMENT in IMM-5923-21**

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

1. The application for judicial review is dismissed.
2. The parties proposed no question for certification and none arises.

“Mandy Ayles”

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Judge

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

**DOCKET:** IMM-5923-21

**STYLE OF CAUSE:** JALIL NIKKHOO v THE MINISTER OF  
IMMIGRATION, REFUGEES AND CITIZENSHIP

**PLACE OF HEARING:** HEARD BY VIDEOCONFERENCE

**DATE OF HEARING:** MAY 26, 2022

**JUDGMENT AND REASONS:** AYLEN J.

**DATED:** MAY 27, 2022

**APPEARANCES:**

Paul Dineen FOR THE APPLICANT

Michael Butterfield FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Chapnick and Associates FOR THE APPLICANT  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario