



FEDERAL COURT OF CANADA
TRIAL DIVISION

B E T W E E N:

NABIL GUIRGAS

Applicant

- and -

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

BEFORE: THE HONOURABLE MR. JUSTICE JEROME, A.C.J.

HELD AT: The Federal Court, 330 University Avenue,
Toronto, Ontario.

DATE: August 20th, 1997.

REGISTRAR: C. CHIOCCHIO

ORAL REASONS FOR DECISION

A P P E A R A N C E S:

MS. V. RUSSELL for the Applicant

G. FRIDAY, ESQ. for the Respondent

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5 HIS LORDSHIP: Thanks Ms. Russell. I am not going to call on the representative for the Minister. I don't accept the submissions on behalf of the Applicant. The application therefore will be denied and here are my reasons.

10 This is a classis case of there being a basis for the Board to go either way. There is evidence to support the Claimant's submissions or his claim, and equally there is evidence and law to support the Minister's position. For example, I believe that the analysis of the panel as stated in its reasons is comprehensive enough. First of all, they
15 approached the issue of whether the Claimant is religious and is an active high profile person in the Coptic Christian faith, and they conclude that he is and accept his evidence in that respect.

20 The second issue they faced then is, does he have a well founded fear of persecution? Now, counsel at that hearing, I believe, and today, has set out an excellent recital of those experiences which would tend to support that
25 the subjective fear of the Claimant is well founded and has some objective bases. However, at the same time it's a little greater burden for someone who indicates that they are not being persecuted in any way or harassed by the State but
30 rather by extremists, and this is one such case,

The difficulty is not with the Egyptian authorities or government but with Islamic Fundamentalists,

5 and indeed the government appears to be troubled to an even
greater extent by the same group and there is indication that
these Islamic Fundamentalists are anxious to overthrow the
clerical government and try to replace it within Egypt with a
strict Islamic regime and therefore they decry not just the
10 Claimant and his family or their people, but even more the
government.

The question then becomes, is there a likelihood
15 that this man when he returns to Egypt would be the butt of
these kind of attacks, and the analysis at page 3 I think is
quite comprehensive and quite accurate, and moreover they
note on the other side of the coin that there are five
million Coptic Christians in Egypt.

20 The Claimant's wife and family have continued to
live there to this day without interference from these
extremists. That's a very serious balancing factor in my
mind, and when I questioned counsel about it a moment ago she
was good enough to acknowledge that there is no indication
25 that they have been the butt of the same kind of hostility as
this Claimant had experienced.

30 His experiences are ten years old and that is
another balancing factor that I suppose is one of those cases
where if he goes back and opens his store opposite a mosque
he might indeed invite the same kind of treatment. If he
were to go to another centre where his wife and family lives

he might not experience that kind of treatment.

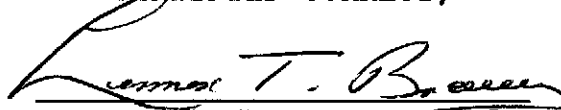
5 There is also indication that when he did
receive that kind of treatment from the fundamentalists that
he reported that to the police and the police acted. Whether
they made arrests or not they certainly found the people who
10 were identified by the Claimant, and therefore there is
evidence that both President Mubarak intends to combat this
kind of extremism and the police are not only able to act but
have acted in the past.

15 Therefore the conclusion that this Claimant,
Nabil Guirgas, is not a convention refugee is well supported.
It's one of these cases that the panel might have gone the
other way, but certainly there is more than ample evidence to
20 justify their conclusion and therefore I do not intend to set
it aside by judicial review or the intervention of the Court
this morning.

25 I will endorse today that for reasons given
orally the application is denied and that brief written
reasons will be filed and they will be filed when I edit the
transcript of my reasons this morning.

Thank you.

30 **CERTIFIED CORRECT,**



Lennox T. Brown, F.I.P.S.
Verbatim Reporter

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