

**BETWEEN:**

**ABDUL KARIM FAZL**

**Applicant**

**- and -**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER**

**JEROME, A.C.J.:**

This is an application for an order setting aside the decision of the Convention Refugee Determination Division of the Immigration and Refugee Board which held the applicant was not a Convention refugee. At the hearing of this matter, I dismissed the application indicating these written reasons would follow.

By decision dated May 30, 1996, the Refugee Division concluded that Mr. Fazl was not a Convention refugee as he had an internal flight alternative (IFA) in northern Afghanistan.

The decision states as follows at pp. 2 and 4-5:

Much of northern Afghanistan, including the city of Mazar-i Sharif, is controlled not by the government in Kabul of President Rabbani, nor by the Taliban militia, but by General Abdul Rashid Dostum.

...

There are some persons who, for whatever reason, have run afoul of General Dostum's forces and experienced treatment that could fairly be described as persecutory. However, when we consider the particular circumstances of the claimant before us, can it be said he faces a serious possibility of persecution in northern Afghanistan? In our opinion, the answer must be in the negative.

The claimant is an ethnic Tajik. However, ethnic Tajiks make up a significant portion of the base of General Dostum's support, and therefore we do not find the claimant to face a serious possibility of persecution in General Dostum's region by reason of his being an ethnic Tajik.

...

The claimant alleges that he is perceived to have a connection to the communist regime that formerly ruled Afghanistan. General Dostum himself is a former communist, his militia was organized by former communists, and includes former communist within its ranks. We therefore find that there is no serious possibility that the claimant would be persecuted in northern Afghanistan because of a perception that he is linked to the former communist regime.

The claimant can be described as an educated person, an intellectual, or an academic. This may very well give him reason for fearing persecution in those parts of Afghanistan controlled by Islamist fundamentalists. But General Dostum is no fundamentalist: he is in fact a secular anti-fundamentalist, he opposes religious fundamentalism, his support from foreign powers is in part motivated by his anti-fundamentalist stance, and intellectuals actually flee Kabul to seek refuge in his territory. We therefore do not find the claimant to face a serious possibility of persecution in northern Afghanistan by reason of his being an educated intellectual and academic.

The applicant now seeks to have the decision set aside on the grounds that the tribunal erred in concluding he had an internal flight alternative (IFA) in northern Afghanistan.

I am satisfied that, in making its determination, the Board correctly applied the test set out by the Federal Court of Appeal in *Rasaratnam v. Minister of Employment and Immigration*, [1992] 1 F.C. 706 at p. 711:

... the Board was required to be satisfied, on the balance of probabilities, that there was no serious possibility of the Appellant being persecuted in Colombo and that, in all the circumstances including circumstances particular to him, conditions in Colombo were such that it would not be unreasonable for the Appellant to seek refuge there.

Here, the panel's conclusion concerning the existence of an IFA in northern Afghanistan was based on documentary evidence and the testimony of the applicant. Furthermore, it was reached in accordance with the applicable law. I am unable to conclude therefore the panel ignored the evidence before it or that its findings were perverse or capricious. In the absence of such an overriding error, there is simply no basis for judicial interference with the decision.

For these reasons the application is dismissed.

OTTAWA  
July 31, 1997

\_\_\_\_\_  
"James A. Jerome"  
A.C.J.