

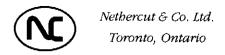
FEDERAL COURT OF CANADA (TRIAL DIVISION)

1	Demuzeu.
2	BETWEEN: IMM-2509-9
3	MOSAYES TAVAKOLLI et al,
4	Applicants
5	- and -
6	THE MINISTER OF CITIZENSHIP AND IMMIGRATION,
7	Respondent
8	Respondenc
9	
10	Held before the Honourable Associate Chief Justice
11	Jerome in the Federal Court of Canada, Courtroom No. 7, 330 University Avenue, Toronto, Ontario, on Tuesday,
12	April 22, 1997.
13	
14	REASONS FOR JUDGMENT (Delivered orally from the Bench
15	at Toronto, Ontario on April 22, 1997)
16	APPEARANCES:
17	Peter Krochak for the Applicant
18	Ann Margaret Oberst for the Respondent
19	Debasel Manhaumatha D
20	Deborah Mombourquette - Registrar
21	
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25	Per: Sarah Nicholson, CVR.

that of all areas that are within the jurisdiction of a tribunal, that in which they should be given the greatest respect by the reviewing court is that of credibility. The reasons for that are self-evident. It is primarily that only the people who conduct a hearing are the ones who see and can judge and based on not just the printed word but the demeanour and the appearance and, therefore, when a tribunal finds, as they do here, that the claimant has not called enough credible evidence to support his claim, it would be extraordinary for me to set it aside unless they failed to substantiate their finding to identify the causes for their concern.

And at the middle of page 2 of their reasons or page 5 of the applicant's record, having recited at the beginning of the factual basis, they indicate that there are a number of problems with the scenario and for the rest of that paragraph they indicate that he was forced to sign a confession but it didn't appear anywhere else in his recital of the events, that it's inconsistent with him being released and his family being notified.

All this follows and is to me a very adequate analysis of all the factors that should be



taken into account in assessing whether all of the elements in play here as: is there credible evidence that this claimant has a subjective fear to start with and is his evidence in that regard plausible or reasonable?

For the reasons set out on page 5 and following, they found that the confession of guilt was inconsistent with the balance of his testimony. It also returns to that topic on page 3, with the paragraph that begins as follows:

A written confession, in our opinion, creates a greater hurdle for the male claimant.

And their analysis, to that extent, I think is quite reasonable.

Then they go on to say:

We find it implausible that the behaviour of the revolutionary guard would be both so stupid and so inefficient.

Therefore, they find portions of his testimony not just incredible but implausible and that, as is quite clearly established, is their perfect right to do in the jurisprudence that I am aware of.

And then in the end, in the second full

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paragraph beginning on page 4, they indicate he has no history of any kind of difficulty. He is a successful business man, away on business, and that it is difficult to understand why he would even claim that he would have difficulties with the authorities; and they also recite a factual element that supports their conclusions in that the claimant met with several persons who knew him, right after the demonstration. And, therefore, they have, in my opinion, done more than the minimum required of it.

The test, of course, is not whether I would have reached a different conclusion but, rather, whether there was a failure to do the proper and adequate analysis of the evidence before them, and I certainly think probably I would have come to the same conclusion because it seems to me to be the only reasonable one on the evidence.

However, that is not the test; the test for me is whether this tribunal did a proper job in assessing credibility and in identifying in their reasons, justification for the conclusion that their finding of credibility was adverse to the claimant and to the female claimant in turn.

Therefore, for these reasons, the application is denied.



CERTIFIED CORRECT:

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Sarah Nicholson, CVR. Reporter.