

Federal Court



Cour fédérale

Date: 20130206

Docket: IMM-3858-12

Citation: 2013 FC 130

Ottawa, Ontario, February 6, 2013

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

GEZGEZ, GUL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. INTRODUCTION

[1] The Applicant, a 27 year old female citizen of Turkey, based her refugee protection claim on fear of her ex-boyfriend, fear of Turkish authorities due to her involvement in women's rights organizations and receipt of threats from a Kurdish family.

A member [Member] of the Refugee Protection Division [RPD] denied her claim. This is the judicial review of that claim.

II. FACTS

[2] The Applicant's fear of her ex-boyfriend stemmed from her breaking off the relationship. She outlined a number of physical threats and assaults she suffered at his hands. She also harboured a suspicion that the ex-boyfriend had friends in the Turkish prosecutor's office.

[3] The Applicant also claimed that she was a member of a women's rights group. She said that she and other women were sexually harassed by village guards in a village the women's group had visited. She said that officials in the Ministry of Interior Affairs warned against filing a complaint. She also alleged other incidents while teaching at school. Most of these incidents were not canvassed at her RPD hearing.

[4] Lastly, the Applicant alleges that she was threatened by the family of a Kurdish woman who she had helped when the woman ran away from her family.

[5] The Applicant made two attempts to postpone the RPD hearing. The first, due to counsel's scheduling conflict, was successful. The second, based on the need to obtain and file documents said to be en route from Turkey, was not successful. The RPD held that the Applicant had sufficient time to obtain the documents.

[6] At the end of the hearing the Member refused to allow the filing of post-hearing documents, again on the basis that the Applicant had from June 2011 to March 22, 2012 to obtain the documents.

[7] The Member determined that the Applicant was not credible with respect to all three aspects of her claim:

- the Member's finding regarding the ex-boyfriend was based on lack of corroborating documents, inconsistencies with her PIF and general incredibility of her story;
- there was no corroboration of her story regarding the women's rights organization; and
- with regard to the Kurdish family, there was a general lack of corroboration and credibility.

[8] The Member also considered the issue of state protection. The Member found that the Applicant has not sufficiently engaged the state for protection – one phone call was not sufficient.

III. ANALYSIS

[9] With respect to credibility findings, the standard of review is reasonableness with considerable deference owed to the trier of fact (*Aguebor v (Canada) Minister of Employment and Immigration (FCA)* (1993), 160 NR 315, 42 ACWS (3d) 886).

State protection findings are subject to the reasonableness standard of review (*Hinzman v Canada (Minister of Citizenship and Immigration)*, 2007 FCA 171, 282 DLR (4th) 413).

The issue of refusals to grant time are discretionary matters but must be assessed as to procedural fairness on a correctness standard (*Matingou-Testie v Canada (Minister of Citizenship and Immigration)*, 2012 FC 389, 407 FTR 195).

[10] I can find no basis for overturning the RPD's findings in this area. The Member considered contradictory evidence, applied a reasonable plausibility analysis and was in a far better position than this Court to assess general credibility.

[11] In my view, the state protection analysis is unassailable and is a complete answer to the Applicant's refugee protection claim. A single complaint to police, in these circumstances, is not a sound basis to find that the Applicant had overturned the presumption of state protection.

[12] The decision not to adjourn (*Aguilar v Canada (Minister of Citizenship and Immigration)*, 2012 FC 561, 219 ACWS (3d) 921) and not to admit post-hearing documents is discretionary (*Zheng v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1096, 208 ACWS (3d) 167). The Member had a proper rationale for his decision. The Applicant failed to establish the materiality of the documents said to be en route.

[13] At the hearing before this Court, the Applicant did not seek to supplement the record by introducing the documents as evidence that there had been a breach of natural justice by the refusal to admit them at the hearing.

IV. CONCLUSION

[14] For these reasons, this judicial review is dismissed. There is no question for certification.

JUDGMENT

THIS COURT’S JUDGMENT is that the application for judicial review is dismissed.

“Michael L. Phelan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3858-12

STYLE OF CAUSE: GEZGEZ, GUL
and
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 14, 2013

**REASONS FOR JUDGMENT
AND JUDGMENT:** PHELAN J.

DATED: February 6, 2013

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