

1502215 (Refugee) [2016] AATA 4274 (3 August 2016)

DECISION RECORD

DIVISION:	Migration & Refugee Division
CASE NUMBER:	1502215
COUNTRY OF REFERENCE:	Jordan
MEMBER:	Rodger Shanahan
DATE:	3 August 2016
PLACE OF DECISION:	Sydney
DECISION:	The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.

Statement made on 03 August 2016 at 2:21pm

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the Migration Act 1958 and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant who claims to be a **citizen of Jordan**, applied for the visa [in] August 2014 and the delegate refused to grant the visa [in] February 2015.
3. The applicant appeared before the Tribunal on 21 July 2016 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.
4. The applicant was represented in relation to the review by his registered migration agent.

CLAIMS AND EVIDENCE

PV Application

5. The applicant claimed that he had left Jordan to pursue his Jehovah's Witness faith in an unrestricted manner. In Jordan he could not attend congregational meetings on a regular basis or fellowship openly, which rendered his faith inoperable. If he returned to Jordan and practised openly he would be exposed to serious harm. He is unable to marry under Jehovah's Witness rules, to be buried or inherit in this manner.

Tribunal Hearing

6. He claimed that as a Jehovah's Witness he needed to preach to everyone and in Jordan he wouldn't be allowed to do this with Muslims because he would be harmed. He also had to attend Christian gatherings and in Jordan the government interfered and stopped him from attending. He had no civil rights such as marriage, burial and inheritance. They had publications such as newspapers and magazines that they had to read.
7. This harm would be done to him by any Jordanian Muslim and by the Jordanian government. If he read and distributed the publications he would be detained and interrogated where he may be bashed. He could also not work in the bank, for the government or a telecommunications company as the government would prevent them given their religious identity.
8. Regarding the evangelising he claimed that he preached from house to house and spoke to Christian people. Sometimes they would be watched and a person would ask what they were doing. This person would often tell them to leave. Some incidents had happened to Jehovah's Witnesses where they had been taken, interrogated and bashed. Asked how they knew they were only going to Christian homes, he claimed they knew from the family name. The names were known through their tribal names; the applicant's [Sibling 1] said that people had their names on the intercom or a cross.
9. The member put to the applicants that he had travelled to Jordan numerous times and that not all houses had this; high rises sometimes did, sometimes didn't. Tribes also had elements of different religions in them so names weren't a guaranteed guide so there must have been many opportunities for mistakes in who they evangelised.
10. Asked if they often came across Muslims, the [Sibling 2] said they weren't always sure whether the family were Muslim or Christian but if they found the person was a Muslim they would

explain their task and ask if they could be directed to a Christian family. The [Sibling 1] said they would also ask for Christian families to guide them to other Christian families. The [Sibling 2] said that sometimes people wouldn't want to guide them or that their activities weren't allowed. They would be threatened with harm or with the authorities being called. They had all been evangelising.

11. The applicant had been doing this since he was [age]; he had an older person as a mentor who accompanied him. His parents had also evangelised from 1988 in [cities]. Asked if anything had happened to them in that time, he claimed that his [relative] kicked him out of the house and his [Sibling 1] would visit their house and abuse the applicant's father. The applicant and [Sibling 3] had not been accepted into a Christian school and were put into a Muslim school. Asked to clarify what he meant by a Muslim school, he clarified that he meant a Jordanian public school.
12. During his evangelising he had been approached by people several times and told not to preach. He had been going with his father since he was a toddler and without his family on these from the ages of [ages] – he never experienced any physical harm because he had been cautious and only preached to Christians, but he was not fulfilling the requirement to preach to everybody.
13. He was asked why he feared harm now given his father had taken him as a toddler which would indicate that there wasn't risk of physical harm, and the applicant had never been harmed himself. He again claimed that he never evangelised to Muslims; his father never took him to places where there was any risk. He was asked how he would have known if there was no risk given nobody had complete knowledge.
14. Asked why they would now have to evangelise to Muslims, the [Sibling 2] claimed they had been restricted all their lives but the principles of the holy book were very clear that they would have to evangelise to everyone. They came to Australia because they didn't want to live their lives with all the religious restrictions placed on them. Two years before they came to Australia it had been prohibited for publications to enter the country and they had to be smuggled in within suitcases. They felt concerned they were followed when evangelising.
15. Asked again why they would need to evangelise Muslims in Jordan given they hadn't done this before and there was no country information that would indicate that Jehovah's Witnesses did this presently in Jordan, [Sibling 2] claimed that this was the principle of the religion but the Jordanian government didn't allow them to do it. [Sibling 2] was asked why they didn't do it in Jordan if it was a religious obligation and there were not incidents of this occurring in Jordan currently.
16. [Sibling 2] claimed that the relationship between Jehovah's Witnesses and the Jordanian government was not good as they had been denied their rights. [Sibling 2] was asked if there was any country information that indicated the Jordanian government targeted Jehovah's Witnesses in Jordan. [Sibling 2's] father had been one since 1988 and their family appeared to be economically successful and had a good life in Jordan, including going to university. They were claiming a fear of being persecuted in Jordan for doing something that Jehovah's Witnesses didn't appear to be doing in Jordan.
17. The [Sibling 1] said they had been in Australia for two years and when they went preaching they had been used to asking anyone without regard to their religion. They had also gone to train stations to preach. This was the principle held within the bible. It was put to them that this same principle must have held for them in Jordan and for their father yet this hadn't been followed. There were religious obligations that were hard and fast and others where there was some flexibility. If the former then why wasn't it being followed in Jordan, and if the latter could it not be that they weren't required to preach to everyone regardless of the circumstances. He

claimed they came to Australia because they hadn't been following the principles in Jordan because of their fear for physical harm. Since being in Australia their faith had increased. In Australia they were members of the [suburb] congregation.

18. In Jordan they had to gather in a basement apartment as they didn't have their own place of worship. The government had come to these meetings on several occasions and taken away some followers for questioning. They then had to stop the meetings for about a week. None of them had been taken away but their parents had been requested to speak to the intelligence. The intelligence wanted to know the names of members attending the meetings, including new members.
19. Asked why they would care given there was no indication that Jehovah's Witnesses are a security threat. They claimed they were considered a security threat because while on service they could pose a threat because Jordan was looking to maintain social stability and thought that Jehovah's encouraged instability, encouraged by other Christian groups. Asked if they had any country information that indicated Jehovah's Witnesses were detained by the Jordanian authorities given there was a lack of any such reports in Western and UN religious freedom reports, or from Jehovah's Witness sources that members of the community were being detained, they claimed that the government would not tell people what was happening.
20. Asked why Western Jehovah's Witness communities internationally not raising the issue with other people given interest groups would want to raise this issue, he claimed this was in order to protect the community. Some members had been persecuted, others deported. Asked if there was information that would support this claim, he claimed the government wouldn't give this information out.
21. [Sibling 3] claimed that on [number] occasions a Muslim and Christian had pulled a weapon on [Sibling 3]. [Sibling 3] did not have any evidence of this however. They were not allowed to get a burial certificate and all of their communications were monitored. Asked how they knew this, he claimed GID told the members when they were detained. [Sibling 3] was asked why GID would tell them they were being monitored given that the whole idea was to monitor them without this being known. [Sibling 3] claimed they did it to harass people.
22. The [Sibling 2] said when [was] at university [was] told that a GID person told [Sibling 2's] friend that they knew the applicant was Jehovah's Witness and they were monitoring [Sibling 2]. [Sibling 2] was asked why GID would tell someone they were monitoring someone else. [Sibling 2] claimed [didn't] know but that it was perhaps because they wanted to harass [Sibling 2]. [also] claimed that [applied] for a telecommunications job but was refused and [was] told informally that [was] rejected because of [religion] but would not give [a] letter to this effect.
23. Asked how they knew [Sibling 2] was a Jehovah's Witness as opposed to a Christian. [claimed] it was a private company (a call centre) with Christians and Muslims working there and there could have been no other reason. [Sibling 2] then said [name] was taken and given to GID who would say whether [could] be employed or not. It was put to [that] unemployment was an issue in Jordan so [may] not have been successful because a better person got it. [Sibling 2] claimed [had] been training first. Asked why a call centre would be worried about [religious] identity and [claimed] this was exactly the case.
24. Asked about not working in a bank [Sibling 2] claimed that [couldn't] work in a state bank but had worked in a private bank that was located in a hotel. After the check that was done on [Sibling 2] [was] transferred to another branch. [Was] not told why but assumed it was because of [religious] identity.
25. Regarding their letter of support from the [suburb] congregation, they were asked whether they would be able to provide anything that indicated their religious requirement to evangelise in

Jordan. They claimed that they shared the same obligations and it was put to them that if they thought they needed to modify their religious observations to return to Jordan then this would need to be supported by some documentary evidence from some religious leadership.

CONSIDERATION OF CLAIMS AND EVIDENCE

26. The applicant first arrived in Australia on a student visa [in] June 2014, and an application for a protection visa was made [in] August 2014. The Tribunal sighted a copy of the front page of his Jordanian passport as proof of his identity.
27. The applicant is a [age] Jordanian Jehovah's Witness. He was one of [number] siblings who all submitted identical claims and their cases were heard together. They claimed that if they returned to Jordan they would be restricted from practising their faith openly, would be detained by the security forces and possibly bashed, have limits placed on their civil rights and be barred from working in some professions because of their Jehovah's Witness faith.
28. In considering an applicant's account, undue weight should not be placed on some degree of confusion or omission to conclude that a person is not telling the truth. Nor can significant inconsistencies or embellishments be lightly dismissed. The Tribunal is not required to accept uncritically any and all claims made by an applicant.
29. I found the applicant's evidence regarding his claims to lack credibility in many, areas. For reasons set out below I did not find the applicant to be an overly reliable, credible or truthful witness, and that while he fabricated much of his claim the Tribunal could give him the benefit of the doubt on his core claim.

Jehovah's Witness Identity

30. I am satisfied that the applicant is a practising Jehovah's Witness in Australia. This is based on letters of recommendation provided by both the [different suburb] (folio 42) and [suburb] (folio 36) congregations of Jehovah's Witnesses.

Difficulty of existing as a practising Jehovah's Witnesses in Jordan

31. Country information indicates that the Jehovah's Witness is not a recognised Christian denomination in Jordan and are therefore subject to discriminatory behaviour. For example they cannot issue their own marriage certificates (this is done through the Anglican church), lack any legal juridical status and cannot undertake basic administrative tasks. These must be done through individuals.¹
32. This discriminatory behaviour does not extend to employment as the applicants claim. [Sibling 2] claimed that [was] unable to work in a bank, then changed the claim to a state-owned bank given [had] worked for a bank in Jordan. I also do not accept that [failed] to get a call centre job at a telecommunications company simply because of [religious] identity. The economic situation in Jordan can be difficult and there are many reasons why a person could be unsuccessful at applying for a job.
33. The applicants have claimed that active preaching is a core element of the Jehovah's Witness faith, and this is backed up by a supporting letter from the [suburb] congregation that was provided post-hearing (folio 43). At the same time country information indicates that individuals who proselytise Muslims can be prosecuted by the State Security Court.²

¹ US Department of States, *2014 International Religious Freedom Report – Jordan*, pp 4-5.

² *Ibid*, p 3.

34. The Tribunal can find no country information that indicates how many, if any Jordanians have been convicted of proselytising. It does not accept that the applicant's father has been detained and questioned several times because of his preaching in Jordan, given there is no corroborative evidence of such incidents which it is reasonable to believe would have come from advocacy groups had it occurred.
35. Nevertheless, the statute still exists and it is likely that, after several years of active ministry in Australia the applicants would have to modify their behaviour in terms of active preaching if they were to return to Jordan and avoid the risk of coming to the attention of the Jordanian authorities for such actions. Although not likely, there is sufficient possibility that such an incident could occur and therefore there arises a real chance that the applicants could suffer serious harm as a result.

CONCLUDING PARAGRAPHS

36. For the reasons given above, the Tribunal **is** satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant **satisfies** the criterion set out in s.36(2)(a).

DECISION

37. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies **s.36(2)(a)** of the Migration Act.

Rodger Shanahan
Member

ATTACHMENT A – RELEVANT LAW

1. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa.

2. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

3. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

4. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – to the extent that they are relevant to the decision under consideration.