Federal Court Cour fédérale

Date: 20140331

Docket: IMM-11638-12

Citation: 2014 FC 306

Ottawa, Ontario, March 31, 2014

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

SPARTAK RADI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION
AND
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondents

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant, a citizen of Albania, seeks judicial review of a negative pre-removal risk assessment ("PRRA") decision which found that he would not be subject to a risk of persecution, danger of torture, risk to life or cruel and unusual treatment or punishment if he returned to Albania.

[2] The applicant's claim relates to an inter-familial blood feud which arose from a land dispute in 2000. The applicant went to the United States ("US") in July 2002 where he filed a political asylum claim without reference to the blood feud. His US claim was unsuccessful. On December 15, 2007 he entered Canada without presenting himself to the border authorities. He sought refugee protection a few days later.

[3] In a decision dated February 9, 2011, the applicant was found to be a person referred to in article 1(F)(b) of the *Convention relating to the Status of Refugees*, 28 July 1951, 189 UNTS 137 (entered into force 22 April 1954, accession by Canada on 4 June 1969) [*Refugee Convention*] and therefore neither a Convention refugee nor a person in need of protection pursuant to s 98 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*]. This finding related to a series of criminal charges and convictions in the US.

[4] In his PRRA application, the applicant asserted that his family had sought the assistance of village elders and the local authorities, including the police and the Committee for Nationwide Reconciliation ("CNR"), to resolve the blood feud peacefully. Those attempts had all been unsuccessful.

[5] The PRRA application was denied on October 5, 2012, on the basis that the applicant had not demonstrated that, on a balance of probabilities, he is likely to face a risk of torture, a risk to his life, or to a risk of cruel and unusual treatment or punishment if he is removed to Albania. Pursuant to s 112(3)(c) of the *IRPA*, the applicant was not eligible for a risk assessment against Convention grounds under s 96 of the *IRPA*.

[6] The officer considered the evidence submitted including a news article dated June 3, 2003 relating to a murder but gave it little weight. The officer also considered a letter of attestation from the CNR in light of IRB reports which dealt with the role of reconciliation groups in Albania and the availability of attestation letters for purchase from such groups including the CNR. As a result, the officer also found the letter to be worthy of little weight. Letters from the District Police Directorate and District Tribunal were also considered but found to be of questionable provenance and assistance.

[7] The officer accepted that that the applicant's evidence on the current country conditions in Albania established the existence of blood feuds. However, on a balance of probabilities, the officer found that the applicant had not succeeded in demonstrating that he or his family were involved in a blood feud. Moreover, the objective documentation on current country conditions in Albania did not establish a personalized, forward-looking risk to the applicant.

[8] The sole issue in this matter is whether the officer erred in his consideration of the evidence.

[9] The standard of review of the PRRA officer's findings of fact or of mixed fact and law has been satisfactorily determined by the jurisprudence to be reasonableness: *Corona v Canada (Minister of Citizenship and Immigration)*, 2012 FC 759, [2012] FCJ no 738 at para 10. Under this deferential standard of review, the Court should not intervene unless the officer's conclusions do not fall within the range of possible acceptable outcomes, which are defensible in respect of the facts and law: *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at paras 47, 53, 55, 62.; *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12, 302 DLR (4th) 1 at paras

52-62; *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62.

[10] I am not persuaded that the officer's findings and decision were unreasonable.

[11] The evidence before the officer was that reconciliation attempts had been made from July 3, 2011. It was reasonable for the officer to find that had previous reconciliation attempts been made with CNR prior to that date, the letter of attestation would have indicated an earlier date. Furthermore, it was for the applicant to provide evidence to establish that earlier reconciliation attempts had been made or that prior assistance had been sought from CNR or any other organization, in order to establish when the blood feud had been declared. He failed to do so to the officer's satisfaction.

[12] With respect to the applicant's submissions regarding the officer's reliance on the IRB reports, it was open to the officer to find that they undermined the credibility of the attestation letter. Similarly the officer's assessment of the Lezhe District Police Directorate's letter is reasonable. While it is not for the Court to weigh the evidence presented to the officer on the application, it can not help but note that a simple visual comparison of the police letter with other official documents submitted and included in the record makes it clear why the officer gave it little weight. It does not appear to be an official document. The officer did consider the letter from the District Tribunal Prosecutor's Office relating to an armed robbery but the content did not corroborate the claim of an existing blood feud.

[13] Contrary to the applicant's submissions, the officer considered the objective evidence, including that submitted by the applicant. The officer recognized that blood feuds occurred in Albania but was not satisfied that the applicant and his family were engaged in one. The officer's reasons for arriving at that conclusion were transparent, intelligible and justified and the resulting decision was within the range of acceptable outcomes based on the evidence and the law.

[14] The applicant failed in establishing his case and this application must be accordingly dismissed. No serious question of general importance has been proposed.

JUDGMENT

THIS COURT'S JUDGMENT is that the application is dismissed. No question is certified.

"Richard G. Mosley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-11638-12

STYLE OF CAUSE: SPARTAK RADI

v

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION
AND THE MINISTER FOR PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 27, 2014

REASONS FOR JUDGMENT AND JUDGMENT: MOSLEY J.

DATED: MARCH 31, 2014

APPEARANCES:

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Margherita Braccio	FOR THE RESPONDENTS

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