

Aoul v. Canada (Minister of Citizenship and Immigration)

Between
Djamila Hadjadj Aoul, applicant, and
The Minister of Citizenship and Immigration, respondent

[2000] F.C.J. No. 504
Docket No. IMM-2880-99

Federal Court of Canada - Trial Division
Montréal, Quebec
Blais J.

Heard: April 5, 2000.
Judgment: April 6, 2000.
(11 paras.)

Aliens and immigration — Admission, refugees — Grounds, well-founded fear of persecution.

Application by Aoul for judicial review of the Immigration and Refugee Board's decision denying her refugee status. Aoul claimed that she had a well-founded fear of persecution in her native Algeria. In her hearing before the Board, Aoul failed to persuade the panel that her family was a social group targeted by fundamentalists. Moreover, she conceded that she had come to Canada to protect her daughter and to flee the war.

HELD: Application dismissed. Aoul's evidence did not demonstrate that she was a target of attacks or that she had a fear of persecution. The Board did not err in its conclusion.

Statutes, Regulations and Rules Cited:

Federal Court Act, s. 18.1(4)(d).

Counsel:

Eveline Fiset, for the applicant.
Thi My Dung Tran, for the respondent.

1 **BLAIS J.**— This is an application for judicial review of the decision of the Immigration and Refugee Board on May 17, 1999 denying the applicant refugee status.

Facts

2 The applicant is a citizen of Algeria. She is a widow, aged 63. She has six children dispersed around the world: a son who is studying in the United States, two daughters and one son in Canada, a daughter in France and a daughter who is still living in Algeria. She claimed refugee status along with her daughter, with whom she came, alleging a well-founded fear of persecution. The applicant lived about nine months in the United States before coming to Canada.

Issue

3 Did the Board err in law in finding that the applicant does not belong to a persecuted social group?

Analysis

Standard of review

4 In *Pushpanathan v. Canada (M.C.I.)*, [1998] 1 S.C.R. 982, Bastarache J. held that the standard of correctness should be applied to decisions rendered by the Board on points of law. Findings of fact fall within the jurisdiction of the Board. This Court cannot intervene unless the findings of fact were erroneous, made in a perverse or capricious manner or without regard for the material before the Board, as provided in paragraph 18.1(4)(d) of the Federal Court Act.

5 In *Casetellanos v. Canada (Solicitor General)*, [1995] 2 F.C. 190, Nadon J. stated:

The characterization of the family as a social group goes to the persecution that is directly suffered by a person simply because he is a member of a certain family....

One will not, for example, be deemed to be a Convention refugee just because one has a relative who is being persecuted. There has to be a clear nexus between the persecution that is being levelled against one of the family members and that which is taking place against the others: vide *Al-Busaidy v. Canada (Minister of Employment and Immigration)* (1992), 16 Imm. L.R. (2d) 119 (F.C.A.). The family can only be considered to be a social group in cases where there is evidence that the persecution is taking place against the family members as a social group. For example, it is possible that a claimant may be persecuted for his own political views, and not because of those of his parents, who may also be dissidents.

6 The applicant failed to persuade the Board that her family was a social group targeted by the Fundamentalists. Moreover, the applicant conceded that she had come to Canada to protect her daughter and to flee the war.

7 The Federal Court of Appeal laid down the test for persecution in the context of civil war in *Rizkallah v. Canada (M.E.I.)* (1992), 156 N.R. 1:

To succeed, refugee claimants must establish a link between themselves and persecution for a Convention reason. In other words, they must be targeted for persecution in some way, either personally or collectively.

8 In the case at bar, the applicant certainly was afraid following the incidents in her neighbourhood, but the evidence did not demonstrate that she was targeted by the attacks. The applicant failed to persuade the Board that she had a fear of persecution or that she was targeted. I am not convinced that the Board erred in arriving at this conclusion.

9 Although the applicant's case is compassionate, this Court could not intervene. However, there is nothing to prevent the applicant's children who are settled in Canada from sponsoring her if such is their desire.

10 The application for judicial review is therefore dismissed.

11 Neither solicitor suggested any serious question to certify.

Certified true translation: Martine Brunet, LL.B.