

CANADA / JUDGMENT

MC0-00640

COURT

Refugee Appeal Division

DECIDED

18 December 2020

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RAD File / Dossier de la SAR : MC0-00640 MC0-00641 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXXXXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision December 18, 2020 Date de la décision Panel Angus Grant Tribunal Counsel for the persons who are the subject of the appeal Styliani Markaki Conseil des personnes en cause Designated representative XXXX XXXX Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS FOR DECISION OVERVIEW

- [1] These are my reasons for dismissing the appeals of XXXX XXXX XXXX (the Principal Appellant) and XXXX XXXX XXXX (the Minor Appellant). The Principal Appellant is a citizen of Argentina. The Minor Appellant is a citizen of Argentina and Mozambique.

BACKGROUND**Basis of Claim**

- [2] The Appellants initiated their claims for refugee protection together with the Principal Appellant's husband, and the father of the Minor Appellant - Mr. XXXX XXXX. The claims of the Appellants relied on the narrative of Mr. XXXX, who is a citizen of Turkey and a supporter of the Gulen movement in that country. The Principal Appellant also claims to now be a supporter of the Gulen movement. In brief, the Appellants asserted a fear that they could be mistreated by, or removed to, Turkey because the Turkish state is influential and has been known to target Turkish supporters of the Gulen movement from abroad.¹ The Refugee Protection Division (RPD) Decision²
- [3] The RPD granted Mr. XXXX claim for refugee protection, finding that he had established that he is a citizen of Turkey and no other country, and that he was a supporter of the Gulen movement. Based on the documentary evidence, the RPD concluded that Mr. XXXX would face a well-founded fear of persecution were he to return to Turkey.
- [4] However, the RPD rejected the claims of the Appellants. In arriving at this conclusion, the RPD noted that the Principal Appellant is a citizen of Argentina, while the Minor Appellant is a citizen of Argentina and Mozambique. The RPD then assessed the Appellants' claims based on their common Argentinian citizenship and concluded that neither established a serious

possibility of persecution or a risk of harm in Argentina. In arriving at this conclusion, the RPD acknowledged that Turkish authorities have arrested and harassed Turkish citizens abroad who are suspected of being members of the Gulen movement. However, the RPD concluded that there was no evidence that non-Turkish citizens abroad are targeted by Turkish authorities.

- [5] In rejecting the claim of the Minor Appellant, the RPD noted that, as the Principal Appellant is also a citizen of Argentina, the child would not be left alone if she were to return to Argentina.

ANALYSIS

- [6] The role of the RAD is to assess whether the RPD made the correct decision. While there may be instances that call for deference to the RPD decision, in this case, I see no reason for such deference.³ In applying this standard, and having assessed the Record, I agree with the RPD's conclusions, largely for the reasons that it provided.
- [7] The Appellants' argument on appeal flows from the following propositions:
- a. there is clear evidence that Turkish authorities target Turkish nationals abroad for their affiliation with the Gulen movement;
 - b. there is evidence that the Turkish authorities have also targeted the family members of Gulen supporters;
 - c. Argentina is a highly corrupt country;
 - d. therefore, the RPD erred in failing to conduct an analysis that is specific to the Appellants' circumstances;
 - e. the potential separation of the Minor Appellant from her father would amount to persecution.⁴
- [8] For the following reasons, I do not accept the Appellants' arguments.
- [9] First, even accepting the first three propositions above, as the RPD did, it does not follow that the Appellants face a well-founded fear of persecution in Turkey.
- [10] The Appellants are citizens of Argentina and there is no evidence in the record that they have any status in Turkey. To put it differently, there is simply no evidence that the Appellants have a legal right to enter the country from which they fear they will be mistreated. There is similarly no evidence in the record establishing that the Turkish state has targeted, mistreated, or forcibly patriated non-Turkish Gulen supporters, or family members of Gulen supporters, outside Turkey.
- [11] Second, to respond specifically to the documentary evidence cited by the Appellants on appeal, I note the following:

- i) The fact that the Turkish state has targeted Turkish Gulen followers was accepted by the RPD. This is not probative of the Appellants' claims as they are not Turkish citizens. ii) With regard to the treatment of family members of Gulen supporters, the documentary evidence speaks to 'travel restrictions.' There is, however, no evidence to suggest that the Turkish state has the ability to impose travel restrictions on family members of Gulen supporters who are not Turkish citizens. iii) With respect to the mistreatment of Turkish nationals of dual citizenship, this is of little relevance to the Appellants' claims, as they are not dual citizens. iv) While corruption may be a general problem in Argentina, this fact on its own is of little probative value in establishing that the Turkish state poses a risk to the Appellants. First, as noted above, there is no evidence to suggest that the Turkish state would target the Appellants. Second, there is no evidence to connect corruption in Argentina with the alleged risk that the Turkish state poses to the Appellants.
- [12] Furthermore, I find that the RPD did examine the specific circumstances of the Appellants. I see no error in its conclusion that they had failed to establish an objective basis to their allegations.
- [13] With respect to the Minor Appellant, counsel for the Appellants refers to the United Nations Convention on the Rights of the Child, and its call for state parties to ensure that children shall not be separated from their parents. In light of the Convention on the Rights of the Child, counsel argues that the possible separation of the Minor Appellant from her father "amounts to persecution." There are several problems with this argument. First, in suggesting that the Minor Appellants potential removal from Canada would constitute persecution, counsel is, perhaps unwittingly, identifying Canadian authorities as the agents of persecution.
- [14] Second, as the RPD found, the Minor Appellant and her mother are both citizens of Argentina. As such, there is no indication that the Minor Appellant would be separated from her mother.
- [15] Third, notwithstanding the Convention on the Rights of the Child, in the context of refugee determination and analyzing harm and persecution, there is no fundamental right for family members to live together. For example, in *Nasari v. Canada* (MCI), 2017 FC 561 the Federal Court held as follows: While Canadian immigration laws may strive to facilitate family unity in certain circumstances such as those contemplated by section 25 of the IRPA, Canadian refugee law does not recognize any fundamental right for refugee claimants to live together...Moreover, the concept of family unity does not relieve a refugee claimant of the onus of demonstrating that he or she falls within the definition of "Convention refugee".⁵
- [16] Fourth, the Minor Appellant's father was accepted in Canada as a Convention refugee. I take notice of the fact that, as a Protected Person, the Minor Appellant's father will be entitled to include the Minor Appellant (and the Principal Appellant) in his application for permanent residence in Canada.

[17] As a result of the above, I find that the RPD did not err in finding that the Appellants had failed to establish an objective basis to their claims for refugee protection.

CONCLUSION

[18] I dismiss the appeal and confirm the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection. (signed) "Angus Grant" Angus Grant December 18, 2020 Date 1 Exhibit RPD-1, RPD Record, Exhibits 2.1, 2.2, 2.3, Basis of Claim forms, pp.12-40. 2 Exhibit RPD-1, RPD Record, RPD Reasons for Decision, pp.5-11. 3 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145. 4 Exhibit P-2, Appellant's Record, Appellant's Memorandum, pp.6-9. 5 Nazari v. Canada (Citizenship and Immigration), 2017 FC 561 at para. 20, citations omitted.

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