

CANADA / JUDGMENT

TB9-23421

COURT

Refugee Appeal Division

DECIDED

28 January 2020

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RAD File / Dossier de la SAR : TB9-23421

TB9-23422 / TB9-23423 / TB9-23424

Private Proceeding / Huis clos

Reasons and decision ? Motifs et décision

Persons who are the subject of the appeal

XXXX XXXX XXXX XXXX

(a.k.a. XXXX XXXX XXXX XXXX XXXX)

XXXX XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXX
XXXX

Personnes en cause

Appeal considered / heard at

Toronto, ON

Appel instruit / entendu à

Date of decision

January 28, 2020

Date de la décision

Panel

H. Shepherd

Tribunal

Counsel for the persons who are the subject of the appeal

Richard Wazana

Conseil des personnes en cause

Designated representative

XXXX XXXX XXXX XXXX

Représentant(e) désigné(e)

Counsel for the Minister

N/A

Conseil du ministre

REASONS FOR DECISION

OVERVIEW

[1] The Principal Appellant, XXXX XXXX XXXX XXXX, the Associate Appellant, XXXX XXXX XXXX XXXX, and the Minor Appellants, XXXX XXXX XXXX XXXX XXXX, and XXXX XXXX XXXX XXXX XXXX, are citizens of Jordan who appeal a decision of the Refugee Protection Division (RPD), dated August 9, 2019, that rejected their claims for refugee protection.

Determination

- [2] The Refugee Appeal Division (RAD) dismisses the appeals of the Associate Appellant and of the minor Appellants, and confirms the decision of the RPD according to which that they are neither Convention refugees nor persons in need of protection.
- [3] The Principal Appellant's appeal is allowed. The RAD sets aside the determination of the RPD and substitutes its own determination that he is a Convention refugee.

Role of the RAD

- [4] The role of the RAD is to intervene when the RPD is wrong in law, in fact, or in fact and law. The applicable standard of review is correctness, unless deference should be shown to the RPD because it enjoyed a meaningful advantage over the RAD.¹ No issue was identified to which deference should be shown on this basis.

Administrative Issues

- [5] No transcript of the hearing has been prepared. However, an audio recording of the hearing is available which I listened to.
- [6] Counsel provided submissions and documents to the RPD after the hearing. None of these are part of the RPD record. Appeal counsel filed original documents with the RAD as well as provided a copy of counsel's RPD submissions. These have been copied and accepted into the Appeal Record.

- [7] The National Documentation Package (NDP) used at the hearing was issued on March 29, 2019. The current NDP was published on August 30, 2019. The RAD must consider the most recent NDP. Fairness requires that disclosure be made of novel or significant documents, including those that demonstrate changes in general country conditions that could affect the decision.² The 2017 U.S. Department of State International Religious Freedom Report found in the March 29, 2019 NDP was replaced with the 2018 update in the August 30, 2019 NDP. I relied on the current report but have not disclosed the previous version because it does not disclose material changes in country conditions.

Allegations of Fact

- [8] The Appellants constitute a family with two children who are 4 and 6 years of age. They submit that they have a well-founded fear of persecution for reasons of religion. According to the narrative in the Basis of Claim (BOC) form, the Principal Appellant (PA) was accused of being an atheist and an apostate by religious radicals and by the family of the Associate Appellant (AA). While working as an XXXX XXXX between 2005 and XXXX XXXX, 2018, the PA made some comments to a colleague who XXXX religion regarding the creation of the universe. He was accused of being an atheist and terminated from his XXXX position. He was then physically attacked on the street by individuals who appeared to be religious radicals who accused him of being an apostate. Shortly afterwards, he and the minor Appellants were shot at, but not hit, outside of their home by unknown individuals. When the AA's family found out about his comments, they prevented her from having any contact with husband and initiated divorce proceedings. He decided to leave Jordan after receiving a letter from the court on XXXX XXXX, 2018 that required him to appear in court of XXXX XXXX, 2018. The PA fears authorities, religious radicals and the AA's family. The AA fears harm from her family and forced marriage to another man. They fear that the minor Appellants will be harmed out of revenge. The hearing was held on June 25, 2019 and the decision dates to August 9, 2019.
- [9] The Minister intervened and filed a biometrics report from the United States that indicates that the PA entered that country with a United Kingdom (U.K.) passport under a different identity. The Minister also filed social media screen shots that indicate that the PA worked as a XXXX in London for many years. In response, the PA filed an amended narrative in which he admits that, after graduating from university in 1994, he went to the U.K. because he was unable to find work. He applied for asylum in the U.K. in XXXX 1996 as an Iraqi citizen with fake documents. His claim was accepted and he subsequently became a U.K. citizen in 2002 or 2003. He moved back to Jordan in XXXX 2010 where he married the AA the following month. He returned to the U.K. a year and a half later because he was unable to find work. He returned to Jordan in XXXX 2017 when he found a job as an XXXX XXXX at an XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX in a Palestinian refugee camp in XXXX, Jordan. He told a fellow XXXX that he believes that the universe was not created by God. An XXXX XXXX overheard the comment and became angry. He was dismissed from his position after the principal found out about this. He was assaulted and shot at on XXXX XXXX, 2018

while on his way home. Shots were fired near him about two weeks later, striking his sister's car. He moved from XXXX to XXXX about 2 or 3 days later. The AA and the Minor Appellants went to live with her family. Her two brothers found out about his comments and told her that she needed to divorce the PA because he is an atheist. The Appellants obtained Canadian visas in XXXX 2018 which they used to leave Jordan.³

- [10] The AA also provided an amended narrative in which she states that she stopped wearing a veil in 2010 at the encouragement of the PA. This upset her family. After her family discovered that the PA is an atheist, they prohibited her from leaving the house. Her brothers went to court in August to begin divorce proceedings on her behalf on the grounds that her husband is an atheist. The court hearing was scheduled for XXXX XXXX, 2018. Rather than attending, she left the country with the PA and their children.⁴

RPD Reasons for Decision

- [11] The RPD rejected the claims on the basis that the PA had failed to establish his identity and because the Appellants lacked credibility. Nevertheless, the RPD accepted the Jordanian identity of the AA and of the Minor Appellants. The PA made no mention of the U.K. in the original BOC form or in the refugee claim intake documents. The Minister intervened on April 15, 2018 and disclosed a United States (U.S.) biometrics report that shows that the PA was admitted to the U.S. in 2008 as a citizen of the U.K. with a British passport. He subsequently filed an amended narrative on May 6, 2019 that stated that he left Jordan in 1996, successfully claimed asylum in the U.K. against Iraq and became of U.K. citizen. He worked in the U.K. and travelled back and forth to Jordan until 2017 when he moved back. He did not file any evidence about his U.K. asylum claim or the AA's visa application for that country. Given the two sets of government-issued identity documents, it is equally possible that he is an Iraqi-born British citizen than that he is a Jordanian citizen.
- [12] The RPD concluded that the identity documents provided do not overcome credibility concerns. The PA deceived immigration authorities on a number of occasions. He cannot be believed with respect to his identity.
- [13] The RPD drew an adverse credibility inference from inconsistencies between the testimony of the PA and AA on the question of an attack on the street. She testified that the PA told her about it that evening, but he did not know the reason for the attack. Contrary to this, she wrote that she did not go to the police because she did not want to reveal the reason for the attack to them. In addition, the PA testified that he knew that the attack was motivated by allegations of his atheism because they were bearded and uttered the same words as the XXXX had done.

- [14] The RPD drew an adverse credibility inference from its conclusion that the AA was inconsistent about her flight to her family's home. He testified that she went to the family home after the shooting. However, according to her written statement, she told her family that she would be staying with them because her husband was looking for work. Her testimony supported the PA's version of events.
- [15] The RPD drew an adverse credibility inference from the AA's testimony about contact with her family. She testified that her brother locked her up in the family home and took her cell phone to prevent her from contacting or seeing her husband. When asked how she could have communicated with the PA about their plans to come to Canada, she stated that she used her niece's phone to send messages, and then deleted them right away. Sometimes she used her mother's phone when her brothers were at work. When asked why the BOC does not say that her phone was taken away, she said that they searched for it, but not take it. She then said that her brothers would keep her phone when they were at home so that she could not use it. She could use it when they were away. The RPD did not consider her explanations to reasonably explain the omissions and inconsistencies.
- [16] The RPD drew an adverse credibility inference from the conclusion that the AA gave inconsistent evidence about contact with her sisters after her departure from Jordan. She first testified that she is not in contact with any of her family members, except for her niece. She specifically said that she has no contact with her sisters. The RPD asked why the narrative addendum says that she sometimes sent messages to both of her sisters who told her not to return to Jordan. She responded that she sent a text message to one sister who told her that the other sister says the same thing. She also sent a message the other sister once in the past. The RPD did not consider this explanation to reasonably account for the inconsistency, but is rather indicative of shifting testimony.
- [17] The RPD concluded that the remaining evidence does not independently establish the core of the claim. The RPD considered letters of support from the PA's brother and nephew, noting that one letter is not signed and both appear to be in the same handwriting. The RPD did not give "much weight" to these letters. The RPD considered an alleged letter from the XXXX XXXX where he XXXX from XXXX 2017 until XXXX 2018. No mention is made in it to termination for religious reasons. Given the PA's lack of credulity, this document has little evidentiary value. The termination letter that the PA filed after the hearing was given little weight because it is undated, unsigned and without the name of the author. In addition, it refers to the values and principles of the XXXX, but not religion as the basis of the dismissal. The photograph of a bullet hole in a car windshield has little evidentiary value because it contains no identifying information.

New Evidence

- [18] The Application to admit new evidence is denied.

- [19] The Appellants have applied to have new evidence admitted in the form of an Ontario driver's licence issued on XXXX XXXX, 2019, a credit card statement for transactions to September 13, 2019, an electricity bill from August 2019, a XXXX XXXX Bank statement and an Ontario residential tenancy agreement from June 12, 2019, all using the form of the PA's name found in his Jordanian passport. Although some of the documents were issued after the rejection of the claims on August 9, 2019, most refer to on-going transactions that pre-date the rejection. The driver's licence was issued after the rejection of the claims.
- [20] Counsel submits that these documents are admissible because they address the RPD's negative findings concerning the PA's identity and because they could not reasonably have anticipated that they would be needed, given how many identity documents had been disclosed.
- [21] Subsection 110(4) of the Immigration and Refugee Protection Act (IRPA) restricts the admission of new documents to evidence that arose after the rejection of the claim, or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented before the claim was rejected. The Federal Court of Appeal also requires an assessment of credibility, relevance, and newness. The Singh decision notes the prescriptive nature of the wording of subsection 110(4) of the IRPA and mandates its narrow interpretation.⁵ Credibility relates to the source and circumstances surrounding the evidence's creation. Relevance addresses the question of whether the evidence can prove or disprove a relevant fact. Newness can involve significant changes in country conditions that took place after the RPD decision, the discovery of a fact that was unknown before the decision, or disclosure that contradicts a finding of fact made by the RPD, including those relating to credibility.
- [22] The Ontario driver's licence is new evidence in that it was issued after the rejection of the claims and it comes from a reliable source. However, it is unable to prove a relevant fact, namely, identity. The PA has two sets of identity documents issued by national governments, one from Jordan and the other from the U.K. He applied for asylum in Canada under the Jordanian identity. The RPD was aware of the existence of his Jordanian ID documents and considered them in its reasoning. The fact that the PA has established himself in Ontario and obtained documents under his Jordanian identity does not provide new evidence that rebuts the RPD's reasoning. The driver's licence is inadmissible because it fails to meet the relevancy requirement of the Singh decision.
- [23] The same assessment applies to the other documents. In addition, if the Appellants believed that documents that show the PA's use of his Jordanian identity in Ontario would assist in establishing his identity, they could reasonably have filed them before the RPD. Given the Ministerial intervention on the question of identity and the existence of two sets of government-issued identity documents, the importance of obtaining and disclosing all documents that are relevant to establishing identity could reasonably have been anticipated as being important. Under the circumstances, the Appellants were not taken by surprise that the issue of identity was important. If they had truly believed that these documents were

relevant, they could and should have filed them before the RPD. The fact that they were not disclosed was likely related to the fact they add nothing to the Jordanian identity documents that were before the RPD. None of these documents are admissible pursuant to subsection 110(4) of the IRPA.

- [24] Although the Appellants have requested an oral hearing, no new evidence has been admitted that needs to be considered under subsection 110(6) of the IRPA. The application is denied.

Assessment

Identity of the PA

Submissions from Counsel

- [25] First, Counsel submits that the RPD erred in concluding that the PA's identity has not been established. The RPD found that there was good reason to doubt the authenticity of any of the many identity documents that the PA filed, but gave them little weight. The only explanation given was that this conclusion was based on credibility concerns. The RPD stated that it could not conclude whether the PA is a British or a Jordanian citizen because he deceived immigration authorities on a number of occasions in the past. Counsel submits that there were only two U.K. identity documents before the RPD that indicate that he is an Iraqi born British citizen. Other than these two documents, there is not a shred of evidence to support this. The PA testified that he purchased a fake Iraqi identity card that he used to claim asylum in the U.K. He testified honestly that he made the claim because he needed to work and send money to his family in Jordan.
- [26] Counsel submits that the RPD erred in its assessment of the authenticity of the identity documents. It is well established that identity documents that have been issued by a government are deemed to be authentic unless there are reasons to doubt their authenticity. Either the document is authentic or it is not.⁶
- [27] Counsel submits that the RPD erred by engaging in circular reasoning. It did not believe that his testimony was reliable because the documents are not reliable, and the documents are not reliable because his testimony is not credible. The RPD never made clear adverse credibility findings with respect to the PA.
- [28] Counsel submits that the RPD erred in concluding that the identity documents cannot overcome credibility concerns because it did not make any adverse credibility findings with respect to the PA's testimony. It is unclear where these adverse credibility findings come from. Although he was caught in a lie, the PA explained in his BOC addendum and in his testimony how he obtained his U.K. passport and citizenship. The RPD provided no reasons for not believing him apart from the fact that he had previously lied. The RPD erred because refugee claims should be allowed to "come clean" at their hearing. Liars can repent.⁷

- [29] Counsel submits that the RPD erred by failing to consider that the U.K. passport may have been fraudulently obtained. He wrote in his BOC addendum that he paid to obtain a false Iraqi ID when he arrived in Iraq in 1996. Given the Jordanian identity documents filed, his testimony that the U.K. identity is false ought to have been believed. Because he obtained British citizenship through misrepresentation, he is not a U.K. citizen.
- [30] Counsel submits that the RPD ignored evidence that the AA's visa application to the U.K. was rejected. This would not likely have happened if the identity that the PA used in the U.K. was genuine.
- [31] Counsel submits that the RPD erred by failing to account for the fact that he was living and working in the U.K. without problems. He only came to Canada because he could not sponsor his family because of his fraudulent identity.

The RPD erred in concluding that the PA's Jordanian citizenship has not been established

- [32] Counsel is not correct that no adverse inference should be drawn from the PA's failure to disclose his asylum claim, citizenship, residence and work history in the U.K. because he "came clean" by means of an amended narrative.⁸ Although it is true that he made this admission, he did so in response to a Ministerial intervention and fingerprint evidence that established the misrepresentation. He simply admitted the truth after being confronted with it. He did not voluntarily "come clean" before the Ministerial intervention. The RPD did not err in drawing an adverse credibility inference from this conduct.
- [33] Counsel is correct that all of the remaining evidence, when viewed together in light of all of the circumstances, included the accepted Jordanian nationalities of the other Appellants, leads to the conclusion that the PA is likely a Jordanian citizen, and that his Jordanian identity documents are most likely authentic. I agree with counsel's submission on this issue. The PA used two inauthentic Iraqi documents to obtain asylum in the U.K. as an Iraqi national. Port stamps in his British passport document travel back and forth from Jordan. His wife tried to gain admission to the U.K. as a temporary resident from Jordan. The RPD accepted the Jordanian citizenship of the PA and the minor Appellants. All of the other evidence is consistent with the PA's Jordanian citizenship. The totality of the evidence establishes that, more likely than not, he is a Jordanian citizen whose British citizenship is subject to a procedure to annul the status because it was obtained through misrepresenting his identity.
- [34] The adverse credibility finding arising from the significant misrepresentation before U.K. and Canadian authorities is not sufficient to justify the RPD's conclusion about identity in face of the other documentary evidence.

The AA's testimony is not credible

- [35] Counsel submits that the RPD erred in drawing an adverse inference from the fact that the AA did not know the time and reason for the attack. The AA testified that, although the PA did not tell her this, he suspected that there was a relationship between the attack and his dismissal from XXXX. The RPD ignored this testimony.
- [36] The question of the reason why the PA was attacked is central to the claims. The fact that testimony shifted from the PA not knowing who attacked her husband to testimony that bearded men repeated words from his XXXX is a significant inconsistency that led the RPD to make a correct adverse credibility finding. The RPD did not ignore her explanation that he suspected a relationship between the attackers and his atheism. The RPD correctly identified inconsistencies that were not adequately explained.
- [37] The question of the reason why the AA moved in with her family is also central to the claims. There is a significant difference between fleeing to their house because of risk and going to live with them while the PA seeks work elsewhere. The RPD was correct that the AA did not provide a reasonable explanation for this inconsistency. This is not a minor issue.
- [38] Counsel submits that the RPD erred in its adverse inference from the fact that she did not mention in the BOC that her phone was taken away. She testified that her brothers kept it when they were home, but she could use it when they were away. This is a minor issue.
- [39] I disagree. The RPD correctly identified shifting testimony about access to a cell phone. This is an important issue that concerns how the AA was treated by her family. It directly relates to the AA's claim that the Appellants are at risk from members of her family. The RPD was correct that her testimony shifted without a reasonable explanation. Given the significance of the issue, this cannot be categorized as being minor.
- [40] Counsel submits that the RPD erred in its assessment of the AA's testimony about contact with her sisters. Her BOC says that both her sisters told her not to return to Jordan, but she testified at the hearing that only one of them said this to her. She explained that she sent a text to the other sister in the past. The RPD focused on minor details in order to discredit her principal testimony.
- [41] These submissions are not correct. The problem identified by the RPD was that her narrative addendum stated that she sometimes sent text messages to both her sisters who informed her not to return to Jordan. She inconsistently testified that she had not been in contact with any of her family members apart from her niece. When this inconsistency was put to the AA, she stated that she sent a text message to one sister who responded on behalf of herself and the other sister. The RPD correctly concluded that this does not reasonably account for the inconsistency and is indicative of shifting testimony. I agree. There is a significant difference between not having been in contact with her sisters and communicating with them by text messages. Although this is not a determinative issue in itself, the RPD did not err in taking this into account with all of the other facts in arriving at

its negative credibility determination.

- [42] The RPD did not err in its conclusion that the AA is not a credible witness. This is relevant to her stated fear that she would be subject to forced marriage by her family should she return to Jordan. There is no reliable evidence to support this assertion. In addition, the claim that the minor Appellants would be harmed out of vengeance is unsupported by the evidence and unsubstantiated in light of all of the facts. The RPD did not err in its conclusion that neither the AA nor the minor Appellants are at risk in Jordan as understood in sections 96 and 97 of the IRPA.

The RPD failed to address the substance of the claims

- [43] Counsel submits that the RPD erred because it made a general finding of lack of credibility without addressing the root of the claim. The RPD based its adverse credibility findings on the AA's testimony and collaborative evidence, but did not challenge the PA's testimony. Given that it was not challenged, it is presumed to be true. In particular, the RPD ignored testimony about his atheism, problems with his employers and his wife's family, and his reasons for leaving Jordan. The RPD erred by not considering the totality of the evidence.
- [44] According to counsel, the RPD did not accept the brother's letter because it is handwritten and unsigned. However, it includes a phone number and his brother's national ID card. The RPD does not mention the nephew's letter, except that it appears to have the same handwriting as the other letter. The RPD did not assess the content of the letters. If the RPD doubted the authenticity of the documents, it could have called them as witnesses.
- [45] Counsel is correct that the letters from the brother and nephew had identity documents attached and that the RPD failed to take this into consideration.
- [46] The letter from the PA's brother, XXXX XXXX, dated XXXX XXXX, 2019, states that he gave money to the PA to help him travel to Canada. Jordan is not a safe place for him.⁹
- [47] The letter from the nephew of the PA, XXXX XXXX, is also dated XXXX XXXX, 2019. The author states that the PA stayed at his apartment in XXXX in XXXX and XXXX 2018 before leaving in XXXX 2018. He indicates that he knows that the PA had problems with some radical Islamic people and that he did not feel safe in XXXX.¹⁰
- [48] The RPD is entitled to distinguish between affidavits and letters, and can take into account whether or not a letter is signed. However, it erred by failing to give reasons for ignoring the fact that identity documents were attached. These documents are presumed to be genuine unless the RPD provides good reason to doubt their legitimacy. Form alone is not sufficient, especially given the fact that photo identification from the writers was attached. The RPD erred by failing to assess the contents of the letters and consider them when making an overall assessment of credibility.

Employment Letters and Contract

- [49] Counsel submits that the RPD erred in its assessment of the two employment letters and the employment contract. The first employment letter does not mention dismissal for religious reasons and the second letter is undated, unsigned, and is without the name of the author. However, the RPD does not mention that the letter is on XXXX XXXX XXXX letterhead and is stamped.
- [50] Counsel submits that the RPD erred by drawing negative inferences from what the documents do not say rather than what they say. Failure to mention his termination in the first letter is no reason to conclude that this did not likely happen.¹¹ The RPD should not be overzealous in scrutinizing letters for hearsay, dates and missing details when they are consistent with each other and the claimant's testimony.¹² In addition, the reason for the dismissal is stated in the second letter.
- [51] The letter dated XXXX XXXX, 2019 confirms that the PA worked as an XXXX XXXX at the XXXX XXXX XXXX XXXX from XXXX 2017 until XXXX 2018. He also performed volunteer work from 2010 until 2017. ¹³ Although this document confirms employment at a XXXX, it makes no reference to the circumstances under which the PA ceased his employment. The RPD did not err in concluding that this document, in itself, has little probative value with respect to the central issue of dismissal on the allegation that he is an atheist. The same could be said of the employment contract.
- [52] However, the PA filed another letter from the XXXX that does address this issue. The RPD gave it little weight because this letter is unsigned, undated and does not bear the name of the author. Given the PA's history of obtaining asylum and citizenship by means of fraudulent documents, and in light of the credibility concerns that it identified, the RPD did not accept its authenticity.¹⁴
- [53] This document was provided to the RPD with counsel's submissions after the hearing. However, the RPD did not enter it as an exhibit, even though reference was made to it in its reasons for decision. However, counsel provided original documents to the RAD in October, 2019 that include this document.¹⁵ These documents have been accepted into the Appeal Record. Although it is true that it is unsigned, undated and does not include a name, I note that it is on official XXXX letterhead and bears an institutional stamp in blue ink. The RPD failed to made mention of this or explain why these factors were given no weight.

Observations

- [54] The focus of the RPD's findings with respect to omissions and inconsistencies relates to the AA's testimony. The RPD was correct in its assessment that she is not a credible witness. The RPD adequately supported the conclusion that she is not a credible and trustworthy witness. Her allegations of past mistreatment from her family are not likely true. The facts do not establish future risk for her from them, as alleged. The RPD was correct in concluding that she is neither a Convention refugee nor a person in need of protection.
- [55] On these facts, if the AA were to return to Jordan with the minor Appellants, the evidence does not establish that they are persons of interest to any potential agent of persecution or of serious mistreatment. They do not have a well-founded fear of persecution nor would they likely be killed, tortured, or subject to cruel or unusual treatment or punishment.
- [56] The primary reason why the RPD concluded that the PA is not credible was based on his failure to disclose his U.K. history and identity. His testimony itself was generally consistent and supported by documentary evidence. The RPD provided insufficient reasons to conclude that the supporting documents are not likely genuine. Although the RPD was entitled to take the misrepresentation into account when making overall findings of fact, this factor alone is not determinative of his claim. The RPD did not rebut the presumption that the PA's testimony is true, as supported by XXXX records and witness statements. As a result, the PA's testimony about his past experiences in Jordan are deemed to be true.
- [57] The PA has a nexus with the Refugee Convention by virtue of imputed religious opinion.

Country Conditions

- [58] The United States (U.S) Department of State (DOS) Religious Freedom Report provides some background information about the state of religious tolerance in Jordan.¹⁶ The document includes information about the status of Muslims who are considered to be apostates. Converts to Christianity from Islam are included in this category. Converts have reported that they have been ostracized as well as physically and verbally abused by members of their family and community. Treatment included beatings, insults and intimidation from family, neighbours, community and tribal leaders. Credible threats were documented from family members who were concerned about the honour of the family in the community. Muslims are subject to Sharia courts which have jurisdiction over family law. Anyone can file a complaint with the Sharia Public Prosecution against a perceived apostate. The court has jurisdiction to annul a marriage. Although the penal code does not criminalize apostasy, it does prohibit incitement to hatred, blasphemy against Abrahamic faiths or undermining the regime. The law prohibits the publication of statements that slander or insult the founders of a religion or prophets, or are considered to be contemptuous of any religion protected by the constitution. Violators can be fined up to 20,000 dinars. Public schools are required by law to provide Islamic religious education as part of its core national curriculum. Some Muslim leaders are reported to have preached intolerance. Social media are sometimes used

to target apostates. Some converts want to leave the country as a result of discrimination and threats of violence.

- [59] A 2019 Response to Information Request provides additional details about the treatment of atheists in Jordan.¹⁷ A 2010 source indicates that he was not aware of cases of discrimination against atheists in Jordan, but noted that everyone who openly and publicly proclaims atheism may face a negative reaction from society that would depend on the person's social and familial context. A Muslim may experience ill-treatment and discrimination for publicly disrespecting religious laws or indicating that they do not believe Islamic teachings. A 2007 Human Rights Watch report indicates that Jordanian law requires that the press publish in accordance with Islamic values. Those who make statements that are viewed to be insulting towards Islam and cause social scorn can be prosecuted.
- [60] Despite one source not being aware of discrimination, the U.S. DOS report provides ample confirmation that this takes place. In addition, social ostracization, threats, intimidation and violence have been reported. The PA was likely attacked in XXXX 2018 by men who accused him of being an enemy of God. Gunshots were fired towards him in XXXX 2018, striking a nearby car. The PA filed a photograph of the bullet hole to support this. His brother-in-law filed a petition in the Sharia court to have his marriage annulled. Rather than attend a court hearing on XXXX XXXX, 2018, he came to Canada to claim asylum. He did not complain to the police because he was afraid of being arrested for having insulted Islam. He lost his XXXX position because of his religious views. As a result, it would likely be difficult for him to find employment as a XXXX in Jordan. Members of his wife's family disagree with his religious views and have filed a divorce petition in Sharia court in order to protect their honour by removing him from the family. Whether or not they would be successful is a matter of speculation. Although this, in itself, does not constitute persecution, the cumulative nature of risks amounts to persecution. Overall treatment concerns a sustained and systemic violation of fundamental human rights. His ability to live and work freely in Jordan has been seriously compromised. He has also been targeted for violence by a group of people who have accused him of being an apostate who rejects Islamic belief. The documentary evidence confirms that adequate state protection is not available to him. The risk extends throughout the country. The PA has a well-founded fear of persecution. However, the evidence does not establish that risk to him extends to the other Appellants.
- [61] The PA is a Convention refugee. However, his family members are neither Convention refugees, nor persons in need of protection.

CONCLUSION

- [62] The RAD dismisses the appeals of the Associate Appellant and of the minor Appellants, and confirms the decision of the RPD that they are neither Convention refugees nor persons in need of protection, pursuant to paragraph 111(1)(a) of the Immigration and Refugee Protection Act (IRPA).

[63] The Principal Appellant's appeal is allowed. Pursuant to paragraph 111(1)(b) of the Immigration and Refugee Protection Act (IRPA), the RAD sets aside the determination of the RPD and substitutes its own determination that he is a Convention refugee.

(signed)

"H. Shepherd"

H. Shepherd

January 28, 2020

Date

1 Canada (Citizenship and Immigration) v. Huruglica, [2016] 4 FCR 157, 2016 FCA 93 (CanLII).

2 Zhang .v Canada (Citizenship and Immigration), 2015 FC 1031 (CanLII).

3 Exhibit RPD-1, RPD Record, Exhibit 9, pp.57-60.

4 Ibid., pp.63-66.

5 Canada (Minister of Citizenship and Immigration) v. Singh, 2016 FCA 96 (CanLII), at para. 35.

6 Chen v. Canada (Citizenship and Immigration). 2015 FC 1133 (CanLII). Osikoya v. Canada (Citizenship and Immigration), 2018 FC 720, (CanLII) para. 50-51.

7 Guney v. Canada (Citizenship and Immigration), 2018 FC 1134 (CanLII) at para.17.

8 Exhibit P-2, Appellants' Record, at p.22.

9 Exhibit RPD-1, RPD Record, Exhibit 9, at p.75.

10 Ibid. at p.77.

11 Pantas v. Canada (Minister of Citizenship and Immigration) 2005 FC 64 (CanLII) at para. 102.

12 Nagarasa v. Canada (Citizenship and Immigration), 2018 FC 313, (CanLII), at para. 23.

13 Exhibit RPD-1, RPD Record Exhibit 9, at p. 72.

14 Exhibit P-3, Original documents, October 9, 2019.

15 Ibid.

16 National Documentation Package, Jordan, 30 August 2019, tab 12.1: Jordan. International Religious Freedom Report for 2018. United States. Department of State. 21 June 2019.

17 Exhibit RPD-1, RPD Record, Exhibit 6, NDP for Jordan (29 March 2019), item 12.2: Situation and treatment of atheists; whether someone who is born Muslim but does not practice Islam and considers himself or herself to be atheist faces discrimination or ill-treatment by state authorities or society. Response to Information Request JOR103511.E. 15 June 2010.

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Immigration and Refugee

Board of Canada

Refugee Appeal Division

Commission de l'immigration

et du statut de réfugié du Canada

Section d'appel des réfugiés

RAD.25.02 (April 04, 2019)

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