

CANADA / JUDGMENT

VB9-04787

COURT

Refugee Appeal Division

DECIDED

2 November 2020

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RAD File / Dossier de la SAR : VB9-04787 Private Proceeding / Huis clos Reasons and decision ?
Motifs et décision Person who is the subject of the appeal XXXX XXXX XXXX Personne en cause
Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision November 2,
2020 Date de la décision Panel J. Lourenço Tribunal Counsel for the person who is the subject of
the appeal Kay Scorer Conseil de la personne en cause Designated representative N/A
Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS FOR
DECISION OVERVIEW

- [1] XXXX XXXX XXXX (The Appellant) is a citizen of Pakistan. He appeals a decision of the Refugee Protection Division (RPD), dated May 29, 2019, rejecting his claim for refugee protection. The Appellant alleges he faces persecution and a risk to life at the hands of Shias. The determinative issue for the RPD was an internal flight alternative (IFA).
- [2] I agree with the RPD that the Appellant has a viable IFA in Karachi. For the reasons that follow, the appeal is dismissed.

BACKGROUND

- [3] The Appellant is a Sunni Muslim who alleges he faces persecution and a risk to life at the hands of Shias from his community. The Appellant alleges that he hit a horse that was part of a Shia procession with his car. He alleges that a crowd of people rushed at him for injuring the horse, however he was able to escape. He alleges that following this accident, people involved with the procession (hereafter, referred to as "the Shia crowd") attended his family home looking for him. The Appellant alleges that he feared for his safety and therefore did not return home. The Appellant alleges that he lived with his friend in Lahore for two and a half months before he was able to secure a visa to travel to Hong Kong via China where he intended to initiate a claim for protection.
- [4] The Appellant alleges that he was initially detained in Hong Kong but was then released on conditions. The Appellant alleges that a friend in Hong Kong told him that he had seen an individual with a picture of the Appellant on his phone. The Appellant alleges that this caused him to believe that the Shia crowd that was after him in Pakistan knew he was in Hong Kong which led him to decide to come to Canada.

- [5] The RPD accepted that the Appellant had established that his allegation had a link to the Convention ground of religion and accepted that his claim should be assessed under section 96 of the Immigration and Refugee Protection Act (IRPA).¹
- [6] I note that the Minister intervened in the Appellant's claim before the RPD as he arrived in Canada without identity documents and the Minister had concerns regarding his identity. However, the Minister advised the RPD at the hearing that there were no longer any live concerns regarding the Appellant's identity and the Minister has not intervened on this appeal. ROLE OF THE REFUGEE APPEAL DIVISION (RAD)
- [7] The RAD reviews decisions of the RPD on a standard of correctness after conducting an independent assessment of the evidence before it. The exception to this rule is where the RPD enjoys a meaningful advantage in the assessment and weighing of oral testimony heard, which in particular cases, attracts deference. Unless specifically stated below, I have applied a correctness standard.²

ANALYSIS

Appellant's Arguments

- [8] The Appellant argues that the RPD erred in its IFA analysis. The Appellant argues that his agents of persecution have the means and motivation to locate him throughout Pakistan and argues that the RPD ignored his evidence about their ability to trace him to Hong Kong. The Appellant also argues that the RPD failed to consider the objective evidence highlighting the divide between the Shia and Sunni sects of Islam, which he argues is important to the context of his allegation. The Appellant also argues that the RPD was unreasonable in requiring that he be able to identify his agents of persecution. Finally, he argues that his evidence establishes that the agents of persecution have the means and motivation to locate him throughout Pakistan and therefore he does not have access to a viable IFA. The RPD was correct in determining that the Appellant has a viable IFA in Karachi
- [9] I note that the RPD concluded that IFA was the determinative issue in the Appellant's claim. For the purposes of its analysis, the RPD largely accepted the Appellant's allegations and identified any credibility concerns in its IFA analysis.
- [10] The test for assessing an IFA is two-pronged and is set out in the Federal Court of Appeal's decision in *Rasaratnam*:³
- (1) The Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists and/or the claimant would not be personally subject to a risk to life or risk of cruel and unusual treatment or punishment or danger, believed on substantial grounds to exist, of torture in the IFA.

- (2) Moreover, the conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable in all the circumstances, including those particular to the claim, for the claimant to seek refuge there.
- [11] Both prongs must be satisfied in order to find that the appellant has an IFA. Once the issue of IFA has been raised and the potential IFAs have been identified, the burden of proof rests with the appellant to show that they do not have an IFA. An IFA must be a realistic and attainable option.⁴ First Prong: The Appellant has not established that his agents of persecution have the means or motivation to locate him in Karachi
- [12] Pakistan is a large country with an area of over 770,000 square kilometres and has a population of over 207 million people.⁵ The country is comprised of mostly Muslims, who account for approximately 96% of the population, of which approximately 85-90% are Sunni and 10-15% are Shias.⁶
- [13] Pakistan has a number of large urban centres, including Karachi. I note that the objective evidence sets out that Karachi is the most populous city in Pakistan with a population of over 16.6 million.⁷
- [14] The RPD found that the Appellant failed to establish that his agents of persecution have the means or motivation to locate him in Karachi. The RPD noted that the Appellant identified his agents of persecution as the Shia religious crowd that was involved in the procession in his hometown. The RPD found that the Appellant had not adduced sufficient credible evidence to establish the identity of any of these individuals. The RPD also found that the Appellant had not established that these individuals have the means to locate him throughout the country.
- [15] The RPD noted that the Appellant testified that the Shia people are powerful in his hometown (Chakwal) and that they are the majority in Chakwal and throughout Pakistan. The RPD highlights that the objective evidence does not corroborate the Appellant's testimony. The RPD notes that the National Documentation Package (NDP) for Pakistan indicates that Muslims comprise 95% of the total population of Pakistan, and of that 75% belong to the Sunni sect of Islam while 25% belong to the Shia sect of Islam. Therefore, the RPD found that the objective evidence did not support the Appellant's assertion that Shias are powerful and that Shia Islam is the majority religion throughout Pakistan.
- [16] The RPD also noted that while the Appellant alleged individuals from the crowd went to his house on two occasions on the night of the accident, his testimony indicated that he remained in Chakwal at a hotel for two nights and then went to Lahore for two and a half months.⁸ During this time, the Appellant was not located by his agents of persecution. The RPD also noted that the Appellant indicated that his family moved to a village just 20 kilometres outside of Chakwal two months after the accident and also were not located.⁹ Therefore the RPD noted that the agents of persecution not only were unable to locate the Appellant in Lahore for a number of months, but also were unable or uninterested in locating the Appellant's family when they were residing only 20 kilometres away from their

original place of residence.

- [17] The RPD also noted that the Appellant's counsel indicated in her submissions that the agents of persecution were able to track the Appellant to Hong Kong. The RPD noted that the Appellant testified that his friend was eating at a restaurant in Hong Kong and saw someone with the Appellant's picture on their mobile phone. The Appellant testified that this was his Facebook picture and that upon learning of this he left Hong Kong for Canada. The RPD noted that when it asked the Appellant how he discovered that people were looking for him in Hong Kong that were connected to his agents of persecution, the Appellant responded that there are a lot of Pakistani Muslims in Hong Kong and that he connected them in his mind.¹⁰ The RPD found that this was vague and speculative and found that even accepting that the Appellant's friend saw someone with his picture on their mobile phone this did not establish that the Appellant was actually being sought in Hong Kong or that this had any connection to his agents of persecution.
- [18] The RPD also noted that the Appellant initially testified that the Shia crowd was able to locate his family in a city 500 kilometres away from Chakwal just one week before his RPD hearing. The Appellant testified that there was an attempt to kidnap his son one week before his hearing, but his wife scared the assailants away. The RPD noted that upon further questioning, the Appellant ultimately testified that he did not say that this attempted kidnapping was carried out by his agents of persecution.¹¹ The RPD found that there was insufficient evidence to establish that this incident was in fact related to the agents of persecution.
- [19] Finally, in considering the Appellant's allegation that the Shia crowd are powerful and have connections to the government, the RPD found that this was speculative at best. The RPD noted that the Appellant did not advance any evidence to support this and once again noted that the objective evidence did not support the assertion that Shias were generally powerful in Pakistan. Therefore, in assessing the Appellant's evidence, the RPD concluded that he had not established that his agents of persecution have the means or motivation to locate him in Karachi.
- [20] The Appellant argues that the agents of persecution are both able and willing to locate him throughout Pakistan. The Appellant argues that his testimony relating to his experiences in Pakistan and Hong Kong was credible and establishes the reach of the agents of persecution.
- [21] The Appellant argues that the ability of his family to relocate without threat in Pakistan is not determinative as it is not his family who face the risk but rather the Appellant.
- [22] The Appellant also argues that it is unreasonable for the RPD to require that he identify members of the Shia crowd given the circumstances of the accident which involved the Appellant fleeing the scene.

- [23] The Appellant also restates many of his arguments that were made before the RPD. The Appellant submits that his subjective fear is corroborated by the fact that he fled Hong Kong. The Appellant again submits that there is evidence of a long-standing divide between Shias and Sunnis, which provides a basis for the fact that the agents of harm would and could pursue him across Pakistan. The Appellant once again argues that the agents of persecution were able to find him after he relocated to Hong Kong and he highlights the supporting letter from his brother which he indicates corroborates this allegation. The Appellant argues that his evidence that he had been located in Hong Kong by people of Pakistani descent supports his allegations he would be located throughout Pakistan. The Appellant argues given that he had no other grievances with anyone in Hong Kong, he has established on a balance of probabilities that the individuals who were seeking him are connected to the Shia community of Chakwal.
- [24] Having independently reviewed the record I agree with the RPD. I find that the Appellant has failed to establish that the agents of persecution have the means or motivation to locate him throughout Pakistan.
- [25] I agree that the Appellant has failed to advance any evidence regarding the identities or connections of the individuals referred to as the Shia crowd, who he alleges are his agents of persecution. I am not persuaded by the Appellant's arguments that it was incorrect for the RPD to require that he identify his agents of persecution. In reviewing the record, I find that the RPD was not seeking that the Appellant provide exact identities or personal information for all of the individuals. Rather, I agree with the RPD that the Appellant has not established that these individuals have the means to locate him throughout Pakistan. Put simply, the Appellant has not advanced any evidence indicating that these individuals are well-connected or influential. There is no indication that they are members of any organization that might assist in locating the Appellant. Taken at face value, the Appellant's evidence is that members of the Shia minority religion were upset with him for injuring a horse in a procession. I agree with the RPD that this does not establish that these individuals would be able to locate him in Karachi.
- [26] Further I agree with the RPD's analysis of the objective evidence. The objective evidence in the NDP clearly sets out that Shias are the religious minority in Pakistan. While Shias have held occasional positions of power, the objective evidence clearly sets out that Sunnis are the powerful religious majority. I accept the Appellant's argument that there is a deep divide between the two sects, however I find that he has not provided any evidence to demonstrate that Shias generally, or his specific agents of persecution, are in fact powerful and well-connected throughout the country. The only evidence presented by the Appellant in this regard is his own testimony that he believes that Shias are powerful. In weighing this against the objective evidence which consistently highlights that Sunnis are the powerful majority I prefer the objective evidence. Therefore, I find that the Appellant has not established that his agents of persecution are powerful or well-connected on the basis of their identity, religion or any personal affiliations.

- [27] I also agree with the RPD that the inability of the agents of persecution to locate the Appellant during the time he remained in Chakwal, as well as in the months he remained in Lahore, suggests that they lack the means and/or motivation to locate him in Karachi. While I acknowledge the Appellant's testimony that he took precautions while in Lahore, I also acknowledge that the Appellant's family resided a short 20 kilometres away from Chakwal for a number of months without incident. I am not persuaded by the Appellant's arguments that this is because he was the only target for the agents of persecution. According to the Appellant's own testimony the agents of persecution attempted to find him by visiting his family and asking for his whereabouts on the night of the accident. The fact that his family was able to live a short distance from Chakwal for a significant period of time without any threats or inquiries into the whereabouts of the Appellant suggests that the agents of persecution either do not have the means or the motivation to search out the Appellant.
- [28] I also agree with the RPD that the Appellant's testimony that there was an attempt to kidnap his son one week before his RPD hearing does not establish that the agents of persecution have the means or motivation to locate him in Karachi. As noted by the RPD, the Appellant's own testimony was that he had no evidence to suggest that this attempted kidnapping had anything to do with the incident in his hometown.¹² Even taken at face value, I find that the Appellant's spontaneous allegation that there was an attempted kidnapping of his son one week before his hearing, which I note was not indicated in any of his documents and for which he presented no supporting evidence, does not establish that this was linked to the Shia crowd from Chakwal.
- [29] Finally, in considering the Appellant's allegation that he was located in Hong Kong by the Shia crowd, I agree with the RPD that the Appellant has failed to establish that this is in fact the case. The Appellant's evidence was that his friend saw what he believed to be the Appellant's Facebook photo on the phone of an individual at a restaurant in Hong Kong. Even accepting this at face value, I find that this does not establish that the agents of persecution were in fact after the Appellant. I agree with the RPD that the Appellant's testimony that individuals of Pakistani descent were looking for him in Hong Kong is vague and speculative. There is no indication in the record that the Appellant was ever threatened or contacted by these individuals and there was no evidence that they were aware he was in Hong Kong.
- [30] Therefore, in considering the totality of the record before me, I find that the Appellant has not established that his agents of persecution, the Shia crowd, have the means or motivation to locate him in Karachi. Therefore, I find that the Appellant has not established that he faces a serious possibility of persecution or risk to life or risk of cruel and unusual treatment or punishment or danger of torture in Karachi. Second Prong: The Appellant has not established that it is unreasonable for him to relocate to Karachi
- [31] The RPD found that the Appellant had not established that it was unreasonable for him to relocate to Karachi. The RPD acknowledged that the NDP for Pakistan indicated that there was a high crime rate for Karachi, which was a specific concern for Americans and

American-related interests. However, the RPD noted that the Appellant is a Pakistani Sunni Muslim male making him part of the majority population in Karachi. The RPD also noted that while the Appellant had minimal formal education, he had a long and steady history of employment as both a cook and a taxi driver. The RPD also noted that the Appellant himself did not provide any reason why he could not relocate to Karachi aside from his fear of the Shia crowd. Therefore, the RPD found the Appellant had not discharged his burden of establishing that relocation to Karachi was unreasonable.

- [32] The Appellant does not make any specific arguments in relation to the second prong analysis of the RPD and does not advance any particular reason why he could not relocate to Karachi aside from his alleged fear.
- [33] Having independently reviewed the record, I agree with the RPD. I find that the Appellant has not established that it would be unreasonable for him to relocate to Karachi. I agree with the RPD that the Appellant himself did not provide any reasons why he could not relocate aside from his alleged fear. The Appellant is a relatively young Sunni male with a significant and steady amount of work experience. The Appellant speaks Urdu, a majority language in Pakistan. There is nothing in the Appellant's profile that would make it unreasonable for him to relocate to Karachi.
- [34] For these reasons, I find that the Appellant has a viable IFA in Karachi.

CONCLUSION

- [35] I dismiss the appeal and confirm the decision of the RPD that the Appellant is neither a Convention refugee nor a person in need of protection, pursuant to paragraph 111(1)(a) of IRPA. (signed) J. Lourenço J. Lourenço November 2, 2020 Date 1 Immigration and Refugee Protection Act, S.C. 2001, c. 27, as amended. 2 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93, [2016] 4 FCR 157, at 103. 3 Rasaratnam v. Canada (Minister of Employment and Immigration), [1992] 1 F.C. 706 (C.A.). 4 Thirunavukkarasu v. Canada (Minister of Employment and Immigration), 1993 CanLII 3011 (FCA), [1994] 1 FC 589. 5 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package (NDP) for Pakistan (30 April 2018), item 1.5. 6 Ibid. 7 Ibid. 8 Transcript of December 13, 2018 RPD Hearing, at pp. 15-16. 9 Exhibit RPD-1, RPD Record, Exhibit 1, at p. 71. 10 Transcript of December 13, 2018 RPD Hearing, at p. 24. 11 Transcript of December 13, 2018 RPD Hearing, at pp. 9, 29. 12 Transcript of December 13, 2018 RPD Hearing, at p. 29.

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Prepared on 28 October 2026 · Esheria