

CANADA / JUDGMENT

VB9-08509

COURT

Refugee Appeal Division

DECIDED

3 February 2020

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RAD File / Dossier de la SAR : VB9-08509 VB9-08510 / VB9-08511 Private Proceeding / Huis clos
Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX
XXXX XXXX XXXX XXXXXXXXXX XXXX XXXXXXXXXX XXXX XXXX Personnes en cause Appeal
considered / heard at Toronto, ON Appel instruit / entendu à Date of decision February 3, 2020
Date de la décision Panel Angus Grant Tribunal Counsel for the persons who are the subject of
the appeal Uzo Aghaegbuna Barrister and Solicitor Conseil des personnes en cause Designated
representative XXXX XXXX XXXX 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 XXXX XXXX (the Principal Appellant), her daughter XXXX XXXX (the minor female Appellant) and XXXX XXXX XXXX (the minor male Appellant). The Principal Appellant and XXXX are citizens of Singapore, while XXXX is a citizen of the United States. DECISION
- [2] I dismiss the appeal. The RPD was correct in concluding that the Appellants are neither Convention refugees, nor persons in need of protection.

BACKGROUND

Background Facts

- [3] The Principal Appellant is of Tamil, Muslim background. In 2011, she met a Nigerian Christian man and they began a relationship. The relationship was not accepted by the Principal Appellant's family, even when it came to light that she was pregnant. Facing ostracism, the Principal Appellant and her boyfriend went to Nigeria, but they faced similar treatment from his family. The Principal Appellant went to the United States for a time, where she gave birth to the minor male Appellant.
- [4] After her return to Nigeria in XXXX 2012, the Principal Appellant learned that her boyfriend had married a Christian woman and, from this point, the boyfriend became abusive. As a result, the Principal Appellant and her young son returned to Singapore in XXXX 2012, shortly after which she learned that she was again pregnant. After her return to Singapore, the Principal Appellant's extended family and the Muslim community continued to harass and mistreat her.

- [5] The Principal Appellant decided to leave the country. She first went to Nigeria to sell land registered in her name to raise money for travel. She returned to Singapore and the Appellants came to Canada in XXXX 2018. The Refugee Protection Division Decision
- [6] The Refugee Protection Division (RPD) largely accepted the credibility of the Appellants' claims, concluding that there were no material inconsistencies or contradictions in the Principal Appellant's testimony. While the RPD did express some concern related to the Principal Appellants' subjective fear of persecution, it ultimately accepted her allegations as credible.
- [7] Having found the allegations credible, the RPD went on to conclude that the Appellants' claims could not be successful. The determinative issues were, in respect of the minor male Appellant, that he did not face a well-founded fear of persecution or a risk of harm in the United States. For the Principal Appellant and the minor female Appellant, whose claims related to Singapore, the RPD concluded that the presumption that they could obtain state protection in that country had not been rebutted.

ISSUES

- [8] Counsel for the Appellants have raised a number of issues on appeal, some of which are not relevant to the determinative issues, while others inaccurately characterize the RPD findings. For example, in its statement of issues, the first issue raised by counsel relates to whether the RPD erred by finding that the Principal Appellant is not credible.¹ As noted above, the RPD explicitly accepted the credibility of the Principal Appellant's allegations.
- [9] I have carefully reviewed and considered each of the Appellants' arguments on appeal. In the below analysis, however, I will only refer to those arguments that are relevant to the determinative issues. These are:
- a. The minor male Appellant's risk of harm in the United States; and
 - b. State protection in Singapore.
- [10] In the analysis that follows, I have also considered the Chairperson's Gender Guidelines, as they are directly relevant to aspects of the Appellants' claims.²

ANALYSIS

Role of the Refugee Appeal Division on Appeal

- [11] The RPD's decision in this case turned on the issues of state protection and an assessment of risk in the United States. The RPD held no meaningful advantage over the Refugee Appeal Division (RAD) in considering these issues and, as such, I have not deferred to the RPD's findings. I have, rather, carried out my own independent analysis of the RPD's Record to determine whether the RPD erred.³ No error in assessment of minor male Appellant's claim

- [12] The RPD found that the Principal Appellant had made no allegations against the United States on behalf of the minor male Appellant. As such, the RPD concluded that there was insufficient evidence to demonstrate that the minor male Appellant faced a serious possibility of persecution, or a risk of harm (pursuant to section 97 of the Immigration and Refugee Protection Act) in the United States. The RPD further observed that "family unity is not a consideration in Canadian refugee law."
- [13] On appeal, the Appellants again concede that "there is no evidence that the U.S. is unable to protect" the minor male Appellant. However, the Appellants essentially go on to argue that the minor male Appellant's claim should be granted because he is a minor and to expect him to relocate to the United States would "be tantamount to Canada encouraging suicide!"⁴
- [14] While recognizing that the Appellants find themselves in difficult circumstances, I respectfully cannot accept their arguments. As the RPD pointed out, "when the claims of family members are considered by the RPD, it must demonstrate that each family member faces a serious possibility of persecution based on a Convention ground or a likely risk of harm in their respective countries of citizenship."⁵ This is a correct statement of the law.
- [15] As noted by my colleague in RAD File No. MB8-19526, while Canadian immigration law provides various avenues for facilitating family unity, refugee claimants must demonstrate that they fall within the definition of a Convention refugee or a protected person. Moreover, preserving the principle of family unity does not, on its own, attract refugee protection: 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 (*Chavez Carrillo v Canada (Citizenship and Immigration)*, 2012 FC 1228 (CanLII) at paras 15, 17; *Jawad v Canada (Citizenship and Immigration)*, 2012 FC 1035 (CanLII) at para 10; *Canada (Minister of Citizenship and Immigration) v Khan*, 2005 FC 398 (CanLII) at para 11). 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" (*Garcia Garcia v Canada (Citizenship and Immigration)*, 2010 FC 847 (CanLII) at para 15).⁶
- [16] As a result of the above, I conclude that the mere fact that the minor male Appellant holds a nationality that is different from his mother does not provide a sufficient basis on which to grant his claim for refugee protection. Moreover, I note that the Appellants have not adduced evidence suggesting that the minor male Appellant would be separated from his family. The minor male Appellant has resided in Singapore for virtually his entire life. The Appellants have not provided evidence suggesting that he could not continue to live with his mother in Singapore, and the documentary evidence suggests that he may have a path to citizenship in that country.⁷
- [17] As a result of the above, I conclude that the RPD did not err in rejecting the claim for refugee protection of the minor male Appellant. No error in assessment of state protection in Singapore

- [18] As noted above, the RPD further concluded that the Principal Appellant had failed to rebut the presumption of state protection in Singapore. In arriving at this conclusion, the RPD noted that Singapore is one of the world's most prosperous countries, and that its prosperity has translated into strong state protection mechanisms.
- [19] At the outset of my analysis of this issue, I note that the alleged agents of persecution in this matter are defined somewhat generally to include members of the Appellants' family and the Muslim community generally. The Principal Appellant has not had contact with her ex-boyfriend (and the minor Appellants' father) for several years, and she does not claim to fear further mistreatment from him.
- [20] The RPD was correct to point out that law enforcement in Singapore is generally effective. The Member appropriately cited to documentary evidence indicating that Singapore's judicial system is "recognized around the world for its legitimacy and impartiality under the law" and the country is ranked as the sixth least corrupt country in the world.⁸ The RPD went on to observe that Singapore enjoys one of the lowest rates of crime in the world; violent crimes are "rare" and the police response to crime is generally considered "professional and effective."⁹
- [21] While domestic violence remains a concern in Singapore, state protection mechanisms in relation to domestic and family-based violence are also highly developed. Additionally, I note that much of the commentary on domestic violence in Singapore relates to situations between spouses, rather than within larger extended families. The Women's Charter prohibits domestic violence. Both Muslims and non-Muslims may apply for Personal Protection Orders against those who commit family violence, and prosecutions for breaches of protection orders are heard in criminal courts.¹⁰
- [22] The Singaporean government has also reportedly provided crisis shelters, medical treatment, psychological support, counselling and financial aid to victims of abuse.¹¹ The documentary evidence further suggests that violence against women, both within and outside the family context, is prohibited under the Singaporean Penal Code, which "criminalises acts that cause death and physical harm, assault, sexual offences and wrongful confinement..."¹² Moreover, criminal acts in relation to the above offences "carry heavy penalties to deter offenders and signal society's strong condemnation of such acts."¹³
- [23] I acknowledge that the documentary evidence also suggests that there have been "significant limitations" in the implementation of sexual violence laws and that these limitations are due, at least in part, to "negative gender stereotyping on behalf of the judiciary and police."¹⁴ However, I note that this passage refers specifically to the situation of sexual violence, and not to the very different situation outlined by the Principal Appellant in her Basis of Claim form and testimony. I further note that police in Singapore appear to have been provided with mandatory domestic violence training, and that prosecutions are pursued.¹⁵

- [24] I also acknowledge that the Principal Appellant has made very serious allegations related to the threats she experienced: that her family members threatened to kill her parents and her children if she went to the police. However, even before these threats were issued, it appears that the Appellants never approached the state for protection. Having reviewed the Record in its entirety, I conclude that the RPD was correct in the analysis it provided at paragraph 21 of its reasons related to the Appellants' decision not to actively seek protection while in Singapore.
- [25] More specifically, the documentary evidence suggests that authorities "expeditiously charged and brought to trial the majority of those arrested." It further suggests that the Criminal Procedure Code and the Evidence Act has recently been amended to enhance protection for victims of sexual crimes and child abuse. With respect to the threats against the minor Appellants, I note that these amendments now require that "identity protection orders" be issued from the time a police report is lodged.¹⁶
- [26] I further find that the Appellants would have recourse to effective state protection under Singapore's laws related to harassment. Harassment is a crime and the law includes harassment within and outside the workplace, cyberbullying, and bullying of children. Anti-harassment laws may subject persons convicted of "using threatening, abusive, or insulting words or behavior" to considerable fines, and convictions related to stalking may result in imprisonment for up to 12 months.¹⁷
- [27] I have assessed the Appellants' claims, and the issue of state protection, through the lens of the Gender Guidelines. In doing so, I have examined the particular experiences of the Principal Appellant, which I acknowledge have been very difficult, and the documentary evidence. Further to the Guidelines, I have also specifically turned my mind to the social, cultural, religious, and economic context in which the Principal Appellant finds herself.¹⁸
- [28] Having done so, I conclude that it was not unreasonable for the Principal Appellant, in her circumstances, to seek the protection of her state. In sum, I agree with both the analysis and conclusions of the RPD on the issue of state protection in Singapore, particularly as found at paragraphs 15-18, and paragraphs 20-21 of its reasons.
- [29] For greater clarity, on my own review of the Record, I conclude that the Appellants would have access to effective and timely state protection mechanisms in Singapore. In arriving at this conclusion, I do not seek to minimize or dismiss the difficult situation in which the Appellants found themselves in Singapore. While their circumstances do not give rise to refugee protection, they would likely be relevant to other applications to remain in Canada, that may be available to them.

CONCLUSION

- [30] The RAD dismisses the appeals and confirms the decision of the RPD that the Appellants are neither Convention refugees, nor persons in need of protection. (signed) "Angus Grant"
Angus Grant February 3, 2020 Date 1 Exhibit P-2, Appellant's Record, Appellant's

Memorandum, at para. 19. 2 Immigration and Refugee Board of Canada (IRS), Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution, Ottawa, Canada, March 1993, updated November 1996 [Guidelines]. 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, at para. 32. 5 Exhibit RPD-1, RPD's Record, RPD reasons, at para. 12, citing Castellanos v. Canada (Solicitor General), 1994 CanLII 3546 (FC), [1995] 2 F.C. 190 (T.D.). 6 Nazari v. Canada (Citizenship and Immigration), 2017 FC 561 (CanLII), at para. 20. 7 Exhibit RPD-1, RPD's Record, at p. 104, Exhibit 3, National Documentation Package (NDP) for Singapore (March 29, 2019), Item 3.1. 8 Exhibit RPD-1, RPD's Record, at p. 104, Exhibit 3, NDP for Singapore (March 29, 2019), Item 7.2. 9 Ibid. 10 Exhibit RPD-1, RPD's Record, at p. 104, Exhibit 3, NDP for Singapore (March 29, 2019), Item 5.2. 11 Ibid. 12 Exhibit RPD-1, RPD's Record, at p. 104, Exhibit 3, NDP for Singapore (March 29, 2019), Item 5.3. 13 Ibid. 14 Supra, footnote 10. 15 Supra, footnote 12. 16 Exhibit RPD-1, RPD's Record, at p. 104, Exhibit 3, NDP for Singapore (March 29, 2019), Item 2.1. 17 Ibid. 18 Guidelines, supra, footnote 2, at Section C.

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