

**BETWEEN:**

**TAHEREH FARAHMANDPOUR,**

**Applicant,**

**- and -**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION,**

**Respondent.**

**REASONS FOR ORDER**

**DUBÉ J.:**

[1] This applicant for judicial review is a 78 years old Iranian woman. Her claim for refugee status is based on an alleged well-founded fear of persecution due to her religion.

[2] She is a follower of the Baha'i faith. Her children, also members of that faith, have already fled Iran and obtained refugee status in other countries including Canada. One of her two sons who successfully claimed Convention refugee status at the Canadian embassy in Pakistan was the main witness at his mother's hearing, but the Convention Refugee Determination Division of the Immigration and Refugee Board ("the Board") determined on December 9, 1996, that she was not a Convention refugee.

[3] The Board found that there was insufficient credible and trustworthy evidence upon which to base a determination that she was a Convention refugee on several grounds which may be abridged as follows: 1) the applicant significantly delayed leaving Iran, notwithstanding her alleged fear of persecution; 2) the applicant's sons could have sponsored her application for permanent residence in Canada but did not do so; 3) the applicant's evidence that she did not obtain a Canadian visitor's visa from Iran because the line-ups at the Canadian embassy in Tehran were too long is not acceptable; 4) after she left Iran, she stopped over in Australia and the United States but made no refugee claim in those two countries; 5) when she arrived in Canada, she further delayed making her claim: she arrived in this country on July 2, and made her refugee claim on July 22, 1994.

[4] With all due respect to the Board, I find its conclusions not to be reasonable. The Board failed to consider that the foundation of the applicant's fear of persecution is valid and credible. After all, she is a follower of the Baha'i faith as her children were. The Board also failed to consider that the lady was very sick, which explains her delays. After the death of her husband and having been evicted from her apartment, she decided to make one final trip to see members of her family in Australia, the United States and Canada. She collapsed during her flight to Australia and finally recovered enough strength to file a refugee application in Canada three weeks after her arrival.

[5] The Board ignored the totality of the evidence and gave disproportionate importance to delays while ignoring the tragic situation in which the applicant found herself after the death of her husband, the eviction from her apartment, and her justified fear of persecution due to her religion.

[6] Consequently, the application is allowed and the matter is referred back to a differently constituted Board with instructions to consider the matter in light of these reasons.

Judge

OTTAWA, ONTARIO

December 15, 1997

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FEDERAL COURT OF CANADA

TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO.: IMM-92-97

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PLACE OF HEARING: Toronto, Ontario

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REASONS FOR ORDER BY: The Honourable Mr. Justice Dubé

DATED: December 15, 1997

APPEARANCES:

Ms. Helen Luzius for the Applicant

Mr. Godwin Friday for the Respondent

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