

**Date: 19991102**

**Docket: IMM-6291-98**

**MONTREAL, QUEBEC, THIS 2<sup>nd</sup> DAY OF NOVEMBER 1999**

**BEFORE: THE HONOURABLE MADAME JUSTICE TREMBLAY-LAMER**

**BETWEEN:**

MOHAMED **TABET-ZATLA**

Applicant

**AND**

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Application for judicial review of the decision rendered November 20, 1998 by Ghislain Lavoie and Danielle Debbas, board members of the Immigration and Refugee Board in file M98-01920.

**(Section 82.1 of the *Immigration Act*)**

**ORDER**

The application for judicial review is dismissed.

Danièle Tremblay-Lamer

Judge

Certified true translation

Bernard Olivier, LL. B.

**Date: 19991102**

**Docket: IMM-6291-98**

**Between:**

**MOHAMED TABET-ZATLA,**

**Applicant,**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION,**

**Respondent.**

**REASONS FOR ORDER**

**TREMBLAY-LAMER J.:**

[1] This is an application for judicial review from a decision of the Refugee Division that the applicant, a citizen of Algeria, is not a refugee.

[2] The applicant feared the G.I.A., which he said wanted to force him to extort money from the coffers of the company where he held the position of senior accountant.

[3] Despite the able argument by counsel for the applicant, there is nothing to justify this Court's intervention in the case at bar.

[4] The Refugee Division was right to reject the applicant's explanations and he cannot win his case simply by repeating the same explanations in this Court.

[5] It was reasonable for the Refugee Division to conclude that his behaviour was inconsistent with the existence of a subjective fear of persecution. That conclusion rested on the following points: the applicant went to Tunisia in December 1997 and deliberately returned to his country. The panel further noted that he had no problems with the G.I.A. after his return. Finally, the panel considered the delay in leaving the country when he had had a U.S. visa since December 12, 1997.

[6] As I recently pointed out in *Kamana v. Minister*,<sup>1</sup>

The lack of evidence going to the subjective element of the claim is a fatal flaw which in and of itself warrants dismissal of the claim, since both elements of the refugee definition -- subjective and objective -- must be met.

[7] As to any infringement of the *audi alteram partem* rule, this is not a case in which the applicant contradicted himself, which depending on certain factors might have imposed an obligation on the panel to require an explanation. In the case at bar the panel fully understood his testimony, but did not believe it. The question is essentially one of credibility, and the panel's assessment was neither wrongful nor arbitrary.

[8] For these reasons, the application for judicial review is dismissed.

[9] None of the counsel recommended that a question be certified.

Danièle Tremblay-Lamer

Judge

MONTRÉAL, QUEBEC

November 2, 1999

Certified true translation

Bernard Olivier, LL. B.

FEDERAL COURT OF CANADA

TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT No.: IMM-6291-98

STYLE OF CAUSE: MOHAMED **TABET-ZATLA**,

Applicant,

AND

THE MINISTER OF CITIZENSHIP AND IMMIGRATION,

Respondent.

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: November 1, 1999

REASONS FOR ORDER BY: TREMBLAY-LAMER J.

DATED: November 2, 1999

APPEARANCES:

Brigitte Poirier for the plaintiff  
Marie-Nicole Moreau for the defendant

SOLICITORS OF RECORD:

Brigitte Poirier for the plaintiff  
  
Montréal, Quebec  
  
Deputy Attorney General of Canada for the defendant  
  
Ottawa, Ontario

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**Federal Court of Canada**

**Trial Division**

**Date: 19991102**

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**THE MINISTER OF CITIZENSHIP AND IMMIGRATION,**

**Respondent.**

**REASONS FOR ORDER**

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<sup>1</sup> (September 24, 1999), IMM-5998-98 (F.C.T.D.).