

CITIZENSHIP AND IMMIGRATION

STATUS IN CANADA

Convention Refugees and Persons in Need of Protection

Judicial review of negative decision of pre-removal risk assessment (PRRA) officer finding that there was “insufficient objective evidence” that applicant’s ex-husband still after her — Applicant claiming refugee status in Canada on basis persecuted by ex-husband, that police in her home country, Tanzania, powerless to protect her — Applicant’s claim denied by Refugee Protection Division (RPD) of Immigration and Refugee Board (IRB) — RPD finding that applicant not credible witness, her testimony inconsistent with written evidence, that documents applicant submitted containing many errors — RPD’s conclusions subsequently confirmed by Refugee Appeal Division (RAD) of IRB — Applicant applying for PRRA, providing evidence that, since negative refugee claim decision, applicant’s ex-husband kept harassing her mother, applicant’s friends in Tanzania — Providing information about several incidents taking place after RPD hearing — However, PRRA officer giving little weight to evidence of those events, concluding that applicant, if required, could avail herself of protection offered by Tanzania — Applicant arguing in particular that PRRA officer unreasonably assessing her evidence of risk — Whether PRRA officer’s decision reasonable — PRRA officer’s risk analysis unreasonable because officer not providing intelligible reasons for assigning little weight to most of evidence applicant submitting — Moreover, officer’s conclusion that evidence insufficient unreasonable since it could only be explained by ascriptions of weight that were themselves flawed — Basic concepts used when justifying findings of fact such as credibility, probative value, weight, sufficiency reviewed — Analysis of officer’s reasons showing clearly that officer made negative credibility findings on grounds Court has repeatedly held to be unreasonable even though officer never using word “credibility” — Officer in particular discounted evidence given by family members, discounted events not reported to police, unreasonably assessed sufficiency of evidence, also failed to provide reasons for finding of insufficiency — When importing credibility findings made in prior proceedings, PRRA officers must explain why those findings affect evidence before them — Documents filed by applicant in support of her PRRA application not same as those in evidence before RPD, RAD — Only possible to transpose RPD, RAD credibility findings to those documents if some explanation is given — PRRA officer giving no such explanation, not finding that any documents applicant submitted were forged or contained false information — No obvious reason existed to doubt their authenticity — Reasons given by PRRA officer for discounting applicant’s evidence not logically connected to ascriptions of “little weight” contained in decision — Moreover, officer’s finding that evidence insufficient based on general, unexplained finding of lack of credibility — Review of record not curing defects of decision — Decision therefore unreasonable — With respect to state protection, PRRA officer’s analysis unreasonable; officer’s findings could not be reconciled with evidence officer considered or should have considered — Principles of “state protection” examined — PRRA officer in present case not applying test of operational adequacy Federal Court adopted — PRRA officers bound by Federal Court’s case law; cannot ignore test of operational adequacy or substitute test of their own — If officers applying wrong test, decisions considered unreasonable — Moreover, PRRA officer in present case disregarded overwhelming evidence that Tanzania not offering adequate state protection to victims of domestic violence, failed to provide any reasons for doing so — As well, PRRA officer unreasonably concluded that applicant’s complaint to police proof of adequate state protection — Matter thus sent back for redetermination — Application allowed.