

CANADA / JUDGMENT

TC0-02526

COURT

Refugee Appeal Division

DECIDED

7 December 2020

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RAD File / Dossier de la SAR : TC0-02526 TC0-02527 / TC0-02528 / TC0-02529 TC0-02530 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision December 7, 2020 Date de la décision Panel T. Card Tribunal Counsel for the persons who are the subject of the appeal Paul Vandervennen Conseil des personnes en cause Designated representative XXXX XXXX XXXX Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS FOR DECISION

INTRODUCTION

- [1] XXXX XXXX XXXX (the "Principal Appellant"), XXXX XXXX XXXX (the "Spousal Appellant"), XXXX XXXX XXXX (the "First Minor Appellant"), XXXX XXXX XXXX (the "Second Minor Appellant"), and XXXX XXXX XXXX (the "Third Minor Appellant") are citizens of Ethiopia and are appealing a decision of the Refugee Protection Division (RPD) denying their claims for refugee protection.
- [2] The Principal and Spousal Appellants are married to each other. The Minor Appellants are the children of the Principal and Spousal Appellants. The Principal Appellant was appointed as Designated Representative (DR) for the Minor Appellants at the RPD. The Refugee Appeal Division (RAD) confirms this appointment.

DETERMINATION

- [3] The Appeals are dismissed. BACKGROUND AND ALLEGATIONS
- [4] The Appellants are citizens of Ethiopia. The Principal Appellant alleges that he fears the Ethiopian Authorities on the basis they suspect him of supporting the Blue Party. The Principal Appellant alleges he was detained twice because of this suspicion.
- [5] The Principal Appellant received another notice in XXXX 2018 that he was wanted for interrogation. Instead of attending the police station, the Appellants decided to go to Canada.

- [6] The Appellants came to Canada on XXXX XXXX 2018 and made their refugee claims soon after arriving. The RPD rejected the claims on the basis the Principal Appellant was found not credible, and in the alternative, the country documentation shows that the Appellants would be of no interest to the authorities. NO NEW EVIDENCE OR ORAL HEARING
- [7] The Appellant did not submit any new evidence to be considered under s.110(4) of the Immigration and Refugee Protection Act (IRPA).¹ No analysis of new evidence is therefore required.
- [8] As an oral hearing can only be held where there is new evidence that has been admitted under s.110(4), and since there is no new evidence in this case, no oral hearing is required. ISSUES IN APPEAL
- [9] The Appellants argued the following issues in their appeals:
- (a) The RPD erred in its assessment of the Principal Appellant's evidence and in finding him not credible. The RPD was overly microscopic in its analysis.
 - (b) The country circumstances as analysed by the RPD have now changed, and the RPD's analysis regarding the country documentation can no longer stand.
- [10] I find the following issues to be determinative:
- (a) Credibility.
 - (b) Whether there has been sufficient change in country circumstances to warrant a different decision.

ANALYSIS

- [11] I have conducted an independent analysis of the evidence concerned, including reviewing the RPD hearing, as well as considering the Principal Appellant's Memorandum,² the RPD Decision,³ and the Principal Appellant's Basis of Claim (BOC) form⁴ as amended⁵ amongst other documents. Evidence about police was evolving
- [12] One of the reasons the RPD found the Principal Appellant not to be credible was the evolving details about being sought by the police. The RPD has noted, and I have confirmed with my independent analysis, that the Principal Appellant at first did not note that he was being sought by the police in his original BOC⁶.
- [13] He then amended⁷ his BOC to reflect that his father had told him the police had asked him about the Principal Appellant on two separate occasions, about the Principal Appellant's whereabouts.

- [14] Then, at the hearing, the Principal Appellant was asked if the police were looking for him while in hiding. The Principal Appellant's initial answer was that the police did not know about his cousin. Later, this then changed to add that on XXXX XXXX 2018, police asked his wife, and went to his place of business, looking for him.
- [15] The RPD Member asked him why these additional details were in neither the original BOC, nor the amendment. The Principal Appellant replied that he forgot, and that he was worried about writing about prison.
- [16] The RPD did not accept the explanation, and found it to be vague. The RPD found the later omission to be significant.
- [17] The Appellants have argued that the RPD's findings here were microscopic. Additionally, they refer to the case of Perera⁸ amongst other cases. In Perera, the Appellants argue that a Personal Information Form (PIF, the predecessor to the current BOC) is meant to be a brief recitation of the applicant's claim. I do not agree with this characterisation for several reasons.
- [18] Firstly, the BOC form clearly states, in block capitals, "INCLUDE EVERYTHING THAT IS IMPORTANT FOR YOUR CLAIM."⁹ It does not say to just write down a brief summary, and in fact also instructs that additional pages can be used, which the Principal Appellant has done.
- [19] Secondly, I find the Appellants to be ignoring prevalent jurisprudence which states the Federal Court "...has confirmed on a number of occasions that all the important facts of a claim must appear in the PIF and that failing to mention them could affect the credibility of part or all of the testimony. Furthermore, the RPD is entitled to review the contents of the PIF before and after its amendment and may draw negative inferences about credibility if matters it considers important were added to the PIF by an amendment later."¹⁰ This position has been reaffirmed more recently in the case of Ogaulu.¹¹ This is also what the RPD in our case has done, and has done correctly.
- [20] The BOC may not be intended as an encyclopaedic recitation of the evidence, as the case of Jian Feng Li¹² states. However, based on the prevailing jurisprudence referred to above, this in fact relates to minor details and omissions, and not major details as in this case.
- [21] Furthermore, it is one thing for the Principal Appellant to have made amendments ahead of the RPD hearing, adding what his father told him. However, the fact that even after this amendment, key details were still left out and not revealed until prompting by the hearing, is troubling. A pattern of additional instances emerges, and creates a textbook example of evolving testimony.
- [22] I do not concur with the Appellants' argument that these are minor details. I do find that the RPD did not err in not accepting the Principal Appellant's explanations that he forgot, and that he was "worried about writing about prison." The RPD was correct in its findings on this issue. I uphold these findings by the RPD. Supporting letters carry little weight

- [23] The Appellants have also argued that the RPD erred in giving little weight to supporting letters provided by the Principal Appellant's cousin¹³ and father.¹⁴
- [24] The RPD rejected the letters as they were unsworn, and the authors did not give oral evidence to add detail. The Appellants argue that these issues are "...not valid bases to reject the credibility of the evidence or to give it no weight."¹⁵ I find the Appellants' have misapprehended the findings of the RPD.
- [25] The RPD did not reject the letters as not credible and did not award them no weight. Instead, the RPD assessed the letters as having characteristics such as being unsworn and not having the authors available to give oral testimony. They do not adversely affect the Appellants' credibility, but instead carry very little positive weight to support their claim.
- [26] The fact that the authors did not give oral testimony I find is a factor that reduces a letter's weight. The opportunity for an author to add more detail and answer questions, and the answers provided, can add weight to a letter or affidavit. I find the RPD did not err in relation to this consideration.
- [27] In making my independent analysis in relation to the cousin's letter,¹⁶ I did find the content to be particularly brief and lacking in detail. These are factors which also give the letter little weight.
- [28] In relation to the father's letter¹⁷ I make a couple of observations. Firstly, I note that the father states that the Principal Appellant was arrested "for doing nothing wrong." This is curious, as the Principal Appellant had stated it was in part for his father's refusal to allow his sons, including the Principal Appellant, to join the XXXX police. It is true that a letter has to be assessed by what it says, and what it does not say. However, the fact that this element is so vague does reduce the letter's positive weight.
- [29] The letter then goes on to state that the Principal Appellant had been trying to deposit cash from XXXX sales. This is contrary to the Principal Appellant's evidence which was that in fact, he had been transferring cash between banks for a different family business. The RPD asked the Principal Appellant why his father stated that the money was from XXXX sales and the Principal Appellant said he did not know. Given this inconsistency, and the fact the father has not addressed it in his own defence, does reduce the weight that can be afforded to this document.
- [30] Overall, I find the RPD did not err in its analysis of either letter and in giving them little weight. These findings are upheld. Police summons is fraudulent
- [31] The RPD also found the police summons¹⁸ provided by the Appellant to be fraudulent. The RPD noted that it did not match the samples provided in the Response to Information Request (RIR) on police summonses.¹⁹

- [32] The Appellants have argued that the summons is a police issued summons, and not a court issued summons which is what the samples in the RIR are. The Appellants have argued that the RPD erred in its assessment of the summons and in finding it fraudulent.
- [33] In conducting my own analysis, I concur with the Appellants that the samples in the RIR are indeed court summonses. However, I still have several problems with the credibility of the summons provided by the Appellants.
- [34] Firstly, the fact that the address given on the summons is "Wherever you are" is highly suspect. I have considered whether or not this is a cultural difference between Ethiopia and practice in Canada, but find this not to be the case. The RIR does state, "a police summons [not a court summons] includes...the name and address [emphasis added] of the suspected person."²⁰ This disqualifies the possibility that it is standard practice for the Ethiopian police to list "Wherever you are" as an acceptable location to be listed on a summons.
- [35] Furthermore, the RIR also states that a summons can be left with a family member in the presence of a witness.²¹ Therefore, even if the Principal Appellant's address wasn't available to the police, then at least the cousin's address, as the relative with whom a summons could be left, would be listed.
- [36] I find the lack of address, and presence of the phrase "Wherever you are" as an alternative to undermine the credibility of the document.
- [37] Furthermore, I note that the Principal Appellant in fact had testified that the police did not know about the cousin or where he lived. This then brings up the question of how the cousin got the summons. The cousin's letter is silent on this matter, and the cousin did not testify on this matter.
- [38] If the summons was delivered to the cousin, then how did the police suddenly know about the cousin? If the cousin picked it up from the police himself, this goes against the information in the RIR that summonses are served on the accused or family member, rather than being picked up. If the police still do not know about the cousin, and the cousin did not pick the summons up from the police, then where did he get it from?
- [39] The provenance of the summons is therefore also in doubt, adding further credibility problems to the document.
- [40] I find that these credibility problems outweigh the Appellant's explanation that the samples in the RIR are court summons and not police summons. Even with this explanation, the other adverse credibility problems still remain.
- [41] For these reasons, I find the RPD did not err in finding the summons to be fraudulent, and uphold its finding accordingly. Detention and bank receipts not material

- [42] The RPD also drew an adverse credibility inference against the Principal Appellant in relation to his allegation that he was followed by security on or around XXXX XXXX 2017, three days prior to his detention. Security was following the Principal Appellant due to his banking activities in receipts dated XXXX XXXX XXXX XXXX and XXXX, 2017.22
- [43] The RPD found that there was no receipt from 16 December, undermining the Principal Appellant's allegation of being followed on that day.
- [44] The Appellants have argued the RPD missed a deposit receipt on XXXX XXXX, which would be 4 days before the Appellant's arrest. The Appellants have also argued that this is not a material inconsistency to base an adverse credibility finding on.
- [45] I concur that the inconsistency is a minor one. However, even with this being the case, it is still for the Appellants' to prove their case. Even if I overturn this RPD credibility finding, the remaining credibility findings still greatly outweigh any positive evidence before me.
- [46] Overall, I find the RPD did not err in its total assessment of the Principal Appellant's credibility, and in finding him not credible. I uphold these findings. RPD did not err in country analysis
- [47] The Appellants have also argued that the RPD erred in its analysis of the country conditions in Ethiopia and its finding that there has been a fundamental change of circumstances. The Appellants refer to documents they submitted which post-date the National Documentation Package (NDP) at the time, which was dated XXXX XXXX 2019.
- [48] Most of the documents the Appellant refer to that they submitted, show that opposition members were still being arrested after Prime Minister Abiy came to power.
- [49] However, almost all the documents refer to arrests by extremist Oromos against Amharas. The Principal Appellant is Gurage and not Amhara, undermining the relevance of the documents referred to by the Appellants.
- [50] Furthermore, the RPD did consider recent developments, including in particular the disappearance of the Blue Party. The Appellants have not addressed why, even if their suspected links with the Blue Party were accepted, would the government be interested in them given the disappearance of the Blue Party. This has been a lasting change as the Blue Party has not come back.
- [51] That said, I do not accept that the Appellants were wanted by the government for suspected Blue Party links, reducing their risk profile even further. This is because I have found the RPD did not err in finding the Principal Appellant not credible.
- [52] I find the RPD did not err in its assessment of the country conditions in Ethiopia. I uphold the RPD's findings on this issue.

CONCLUSION

- [53] After conducting my own analysis of the entire record, I find that the RPD did not err in finding the Principal Appellant not credible. As the claims of the other Appellants are entirely reliant on that of the Principal Appellant, their claims stand and fall together.
- [54] I also find the RPD did not err in its assessment of the country conditions in Ethiopia as they pertain to the Appellants.
- [55] The RPD's decision is upheld. Pursuant to s.111(1)(a) of the IRPA, the Appellants are neither refugees nor persons in need of protection.
- [56] The appeals are dismissed. (signed) T. Card T. Card 7 December 2020 Date 1 Immigration and Refugee Protection Act (IRPA), S.C. 2001, c. 27, as amended. 2 Exhibit P-2, Appellant's Record, Memorandum, Pages 3-19. 3 Exhibit RPD-1, RPD Record, RPD Decision, Pages 3-13. 4 Ibid., Exhibit 2.1, Pages 14-25. 5 Ibid., Exhibit 7, Page 336. 6 Ibid., Exhibit 2.1, Pages 14-25. 7 Ibid., Exhibit 7, Page 336. 8 Perera v. M.C.I., 2005 F.C. 1069. 9 Exhibit RPD-1, RPD Record, Exhibit 2.1, Page 15. 10 Zeferino v. Canada (Citizenship and Immigration), 2011 FC 456 (CanLII) 11 Ogaulu v. Canada (Citizenship and Immigration), 2019 FC 547 (CanLII) 12 Jian Feng Li v. M.C.I., [1999] F.C.J. No. 455. 13 Exhibit RPD-1, RPD Record, Exhibit 7, Pages 356-358. 14 Ibid., Pages 360-362. 15 Exhibit P-2, Appellants' Record, Memorandum, Page 10. 16 Exhibit RPD-1, RPD Record, Exhibit 7, Pages 356-358. 17 Ibid., Pages 360-362. 18 Ibid., Pages 354-355. 19 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package, Ethiopia, 29 March 2019, Item 10.2: ?Police summonses, including legislation and ways for delivering summonses; information on the appearance and content of summonses, including whether there are variations between federal and municipal summonses, and whether any legislation... Immigration and Refugee Board of Canada. 14 October 2015. ETH105314.E. Also found in current NDP version 30 June 2020. 20 Ibid., Pages 3-4. 21 Ibid., Page 2. 22 Exhibit RPD-1, RPD Record, Exhibit 7, Pages 371-374.

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Prepared on 28 October 2026 · Esheria