

CANADA / JUDGMENT

Ajani v. Canada (Citizenship and Immigration)

2025 FC 768

COURT
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Ajani v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2025-05-06 Neutral citation 2025 FC 768 File numbers IMM-10176-24 Notes A correction was made on January 26, 2023 Decision Content Date:20250506 Docket: IMM-10176-24 Citation: 2025 FC 768 Ottawa, Ontario, May 6, 2025 PRESENT: Madam Justice Azmudeh BETWEEN: HAFSAT ENIOLA AJANI Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview and relevant facts [1] The Applicant is seeking a Judicial Review of the dismissal of her refugee protection appeal by the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada [IRB].

- [2] The Applicant is a citizen of Nigeria. She alleges that on or about July 2020 and when she was in Canada as a student, she heard from her family that they faced persecution at the hand of the associates of a deceased politician. The problems started when the Applicant's father, as the primary land surveyor, agreed to testify in a court case about a disputed land that implicated the deceased politician. The Applicant learnt that the family home was burnt down, which forced the family into hiding. When the family moved to Port Harcourt, the father was assaulted.
- [3] The Applicant alleges to fear a serious possibility of persecution, and on a balance of probabilities, a personal risk of harm at the hands of the associates of the deceased politicians who have targeted the family. She also fears a serious possibility of gender-based persecution as a single westernized woman who has lived in Canada for several years.
- [4] The RPD rejected the claim on credibility. The RAD conducted its own independent assessment, and even though it did not fully agree with all of the RPD's credibility findings, it dismissed the appeal. The Applicant is now judicially reviewing the RAD decision. II. Decision [5] The Applicant's written materials were filed with the help of legal counsel, but the Applicant was self-represented at the hearing.

- [6] I sympathize with the Applicant finding her legal challenges overwhelming. However, for the reasons that I will explain, I dismiss her judicial review application. In short, this is because I find the decision made by the RAD to be reasonable. III. Standard of Review and Issues [7] The Applicant argues that the RAD decision is unreasonable.
- [8] The Applicant also argues that the RPD breached the principles of procedural fairness by not giving the Applicant a reasonable opportunity to explain a material inconsistency. Even though the RAD agreed with the RPD and disagreed with the RPD's credibility finding on the relevant point, she argues that the RAD erred in not applying the principle of judicial comity in dealing with the issue. I find this argument to further contribute to the Applicant's perspective that the RAD decision was unreasonable.
- [9] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 12--15 and 95 [Vavilov]). The starting point for a reasonableness review is the reasons for decision. Pursuant to the Vavilov framework, a reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law" (Vavilov at para 85). The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (Vavilov at para 100). IV. Analysis: Was the RAD decision reasonable? [10] At the hearing, the Applicant heavily relied on her written arguments to argue that RAD member's assessment of credibility was unreasonable. A. RAD's dealing with the RPD's breach of procedural fairness [11] Before the RAD, the Applicant submitted that the RPD erred in not giving her an opportunity to explain the inconsistency regarding her father's attack in Port Harcourt.
- [12] The RAD agreed with the Applicant's argument that the RPD erred by failing to put the material inconsistency to the Applicant. However, the RAD ultimately found that there were sufficient legitimate credibility concerns with respect to untainted evidence to dismiss the appeal.
- [13] The Applicant argues that the question of fairness cannot be rectified by reading out the unfair finding. However, the Applicant cannot divorce the principle from its factual foundation. In this case, the RAD explained why despite the RPD's breach, there remained insufficient credible evidence to support the finding that the Applicant faced a serious possibility of persecution or a personal risk of harm in Nigeria. As a result, the decision remains reasonable.

- [14] In fact, the Applicant argues that it was open to the RPD to come to a different conclusion if the breach did not occur. While this might be true, the RAD engaged in an independent assessment of all of the evidence and clearly explained how the negative credibility findings ultimately led the member to dismiss the Appeal. While it was open to the RPD or the RAD to weigh the evidence differently, this is not the function of the Court on judicial review.
- [15] The Applicant relies on *Okedayo v Canada (Citizenship and Immigration)*, 2023 FC 60 at para 27 to argue that the RAD should have allowed the appeal because it was impossible to conclude that the RPD's breach of procedural fairness had no impact on the result. I find that the Applicant is mischaracterizing this case. In *Okedayo*, the breach was with respect to a mistake about the hours of work on a permanent resident application, when those hours of work were a condition precedent to the evaluation of the application. In other words, the breach was directly and rationally connected to a finding of fact that affected the fate of the application. By contrast, the RPD's error here was with respect to one of the many factual findings that the RAD explained why they supported the dismissal of the appeal. Under those circumstances, that the breach of procedural fairness had an impact on the decision, the Court overturned the decision. This is not the case here. B. Was the RAD decision reasonable on the fear of return because of father's case? [16] I find that the RAD member relied on material discrepancies or omissions to conclude that the Applicant had not established that she would face a serious possibility of persecution or a personal risk of harm on her return to Nigeria.
- [17] In this case, the Applicant submitted that her knowledge of the facts was indirect and a reflection of how she remembered them as her family had explained the events to her when she was in Canada.
- [18] It was reasonable for the RAD not to rely on the Applicant's indirect and incomplete knowledge of the events when those events were directed at her father and did not implicate her. The RAD then explained why a witness who was supposed to have a first-hand knowledge of the events, referred to by their initials OL, also provided unreliable evidence, and why pictures of a destroyed property, were insufficient to establish the underlying fear of the Applicant. I find that the RAD provided reasons that were transparent, intelligible and justifiable in the circumstance.
- [19] In these circumstances, it was reasonable for the RAD to expect to see corroborating evidence of the central element of the claim, namely a court document that the Applicant had alleged had triggered her family's problems. With respect to the absence of court documents, the RAD explained that the lawsuit involving the Applicant's father was central to the allegation and that the Applicant had not established that such a dispute existed. In the context of a case where the Applicant had no direct knowledge of any of the facts and that her witness was unreliable, it was reasonable for the RAD to expect to see relevant corroboration.

- [20] The Applicant's evidence in the form of articles involving the politician, when they were dated and did not implicate the family, did not establish a link between the alleged agent of persecution and the Applicant's family. I find this to be a reasonable conclusion and explained in a manner that the chain of reasoning is clear.
- [21] Ultimately, the RAD analysis clearly explains why the credibility of material facts led them to conclude that were rejected on material inconsistencies. The RAD's reasons do not suggest that corroboration was a pre-requisite. Rather, in light of material discrepancy, the lack of corroboration left the RAD with insufficient credible evidence to find that the Applicant was either a Convention Refugee or a person in need of protection. This is a reasonable approach where the chain of reasoning is clear.
- [22] I find that the Applicant is not happy with how the RAD has weighed the evidence. This Court has repeatedly stated that this is not a ground for intervention on judicial review (*Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 33; *Gega v Canada (Citizenship and Immigration)*, 2021 FC 1468 at para 23; *Boughus v Canada (Citizenship and Immigration)*, 2010 FC 210 at paras 56 –57). C. The assessment of prospective risk based on gender-based persecution [23] The Applicant argued that the RAD member was unreasonable to conclude that as a westernized single woman, she did not face a serious possibility of persecution or a personal risk of harm in Nigeria.
- [24] I find that the RAD fully engaged with the Applicant's profile and interpreted the country condition documents while applying the principles set out in the Immigration and Refugee Board of Canada's "Chairperson's Guideline 4: Gender considerations in proceedings before the Immigration and Refugee Board", (31 October 2023), online: Immigration and Refugee Board of Canada <<https://www.irb-cisr.gc.ca/en/legal-policy/policies/Pages/GuideDir04.aspx>>.
- [25] The RAD examined the country documents, acknowledged the challenges faced by women, and found that the Applicant's particular profile would make it unlikely that the discrimination faced her by her would rise to the level of persecution.
- [26] The RAD member assessed whether the Applicant would face a serious possibility of discrimination amounting to persecution in the context of her specific profile, and the country documents. The RAD referred to the documents highlighting the positive role of education, noted that the Applicant came from a privileged background and was educated, and there was insufficient evidence to suggest that by virtue of being westernized, she would face a serious possibility of persecution or a personal risk of harm.
- [27] The RAD's analysis was thoughtful and logical in explaining a clear chain of reasoning. While it was open to the RAD to weigh the evidence differently, it provided a clear chain of reasoning. I, therefore, reject the Applicant's argument that it was unreasonable. V. Conclusion [28] For the foregoing reasons, the RAD decision is intelligible, justifiable and transparent. It is, therefore, reasonable. The Application for Judicial Review is dismissed.

[29] The parties did not propose a certified question, and I agree that there is no question to be certified. JUDGMENT IN IMM-10176-24 THIS COURT'S JUDGMENT is that The application for Judicial Review is dismissed. There is no question for certification. blank "Negar Azmudeh" blank Judge FEDERAL COURT SOLICITORS OF RECORD Docket: IMM-10176-24 STYLE OF CAUSE: HAFSAT ENIOLA AJANI V. MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: ZOOM CONFERENCE DATE OF HEARING: APRIL 16, 2025 REASONS FOR JUDGMENT AND JUDGMENT: AZMUDEH J. DATED: May 6, 2025 APPEARANCES: Hafsath Eniola Ajani For The APPLICANT (ON HER OWN BEHALF) Cynthia Lau For The Respondent SOLICITORS OF RECORD: Attorney General of Canada Department of Justice Canada Winnipeg (Manitoba) For The Respondent

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