

CANADA / JUDGMENT

Anthur v. Canada (Citizenship and Immigration)

2025 FC 460

COURT

Federal Court

DECIDED

12 March 2025

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Anthur v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2025-03-12 Neutral citation 2025 FC 460 File numbers IMM-11567-23 Decision Content Date: 20250312 Docket: IMM-11567-23 Citation: 2025 FC 460 Ottawa, Ontario, March 12, 2025 PRESENT:

The Honourable Mr. Justice Régimbald BETWEEN: SHARATH SRINIVASAN ANTHUR Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] The Applicant is an Indian citizen of Hindu faith. He claimed refugee status on the basis that he is being targeted by the family of a Muslim woman with whom he had been in a clandestine relationship. The Refugee Appeal Division [RAD] dismissed the Applicant's claim because he was not credible. On judicial review, he claims that the RAD's determination was unreasonable. I disagree. For the following reasons, this application is dismissed. II. Context [2] The Applicant began a relationship with a Muslim woman [F] in 2012. He alleges that he was beaten and threatened by her brother once her family learned of their relationship, which ended after this incident.

[3] In December 2016, the Applicant came to Canada on a student visa. He returned to India on May 19, 2018, briefly meeting F before returning to Canada on June 2, 2018.

[4] In March 2019, the Applicant's father told him that he had received a visit from F's brother. The brother had told the Applicant's father that F had disappeared, and that his family blamed the Applicant for her disappearance because they had met again in 2018. The brother then reportedly threatened to kill the Applicant.

[5] Fearing a threat against his life in his home country, the Applicant made a claim for refugee protection in Canada. The Refugee Protection Division rejected his claim on the basis of his lack of credibility, determining that he was neither a Convention refugee nor a person in need of protection under sections 96 and 97 of the Immigration and Refugee Protection Act, SC 2001, c 27. The RAD reached the same conclusion on appeal. The Applicant now challenges the latter decision before this Court, arguing that its credibility findings were erroneous and its reasons inadequate. III. Issues and Standard of Review [6] The sole issue is whether the decision under review is reasonable.

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- [7] The standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [Vavilov]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39–44 [Mason]). To avoid judicial intervention, the decision must bear the hallmarks of reasonableness—justification, transparency, and intelligibility (*Vavilov* at para 99; *Mason* at para 59). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125–126; *Mason* at para 73). Reasonableness review is not a “rubber-stamping” exercise, it is a robust form of review (*Vavilov* at para 13; *Mason* at para 63). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100). IV. Analysis
- [8] Refugee applicants are presumed to tell the truth (*Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302, 1979 CanLII 4098 (FCA) at para 5), but that presumption is challengeable and a lack of credibility may suffice (*Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 21 [Lawani]). The presumption is notably rebuttable where the evidence is inconsistent with the applicant’s sworn testimony (*Su v Canada (Citizenship and Immigration)*, 2015 FC 666 at para 11, citing *Adu v Canada (Minister of Employment and Immigration)*, [1995] FCJ No 114 (QL) (FCA)), or where the decision maker is unsatisfied with the applicant’s explanation for those inconsistencies (*Lin v Canada (Citizenship and Immigration)*, 2010 FC 183 at para 19).
- [9] The RAD noted numerous discrepancies in the Applicant’s statements on the alleged beatings he suffered at the hands of F’s brother, notably testifying that he wanted to submit his medical documents but “wasn’t able to procure [them],” then stating that he “did not make any attempts to procure them” (Certified Tribunal Record [CTR] at 312–313).
- [10] The Applicant argues that the RAD committed an error by failing to provide him with “adequate reasons” as to why his justification for being unable to provide medical records was not reasonable (Applicant’s Memorandum at para 9).
- [11] The Applicant’s argument is not well founded. The RAD explicitly drew a negative credibility inference from the absence of documentary medical evidence corroborating his allegation that he was assaulted by F’s brother, because of the Applicant’s lack of effort to produce evidence that ought to have been reasonably available (RAD Reasons at paras 17–21). The RAD was entitled to draw such an inference. Indeed, this Court has repeatedly found that a lack of documentation corroborating an allegation, when such documentation should be reasonably available, can be taken into consideration when assessing a claimant’s credibility, especially when no effort has been made to obtain such corroborating evidence (*Lawani* at para 25; *Ismaili v Canada (Citizenship and Immigration)*, 2014 FC 84 at para 33 [Ismaili]).
- [12] Similar concerns assail the Applicant’s testimony on the visit made by F’s brother to his father, which the Applicant did not personally witness. The Applicant initially testified that his parents would not provide evidence to corroborate his fear of persecution because they were embarrassed by the situation involving him and F, but he subsequently testified that he “did not contact anyone” for a statement or an affidavit as a result of his fear of being a target

of honour killing (RAD Reasons at paras 22–27). The RAD found that the Applicant’s lack of effort to provide evidence to corroborate key elements of his narrative that he himself did not witness firsthand, undermined his credibility (RAD Reasons at paras 27–28).

- [13] The Applicant has not shown that this finding was unreasonable. I reiterate that the RAD is entitled to draw a negative inference of credibility based on a claimant’s lack of effort to obtain corroborative evidence, where corroborative evidence should reasonably be available to establish essential elements of a claim and there is no reasonable explanation for its absence (Lawani at para 25; Ismaili at para 33).
- [14] Further discrepancies arose between the narrative in the Applicant’s Basis of Claim [BOC] and the evidence he presented before the decision maker. Most notably, the Applicant omitted to mention in his BOC that F had been killed in an “honour killing” (CTR at 91–92); and in his testimony, he established that this element was central to his own fear of becoming the target of honour-based killing at the hands of F’s family (CTR at 315; see also RAD Reasons at paras 46–51). This inconsistency is serious insofar as it concerns an element at the very heart of his refugee claim. Failure to include significant allegations in a BOC can support a negative credibility finding, and the RAD was plainly entitled to draw that negative inference from the Applicant’s material omissions (*Ogaulu v Canada (Citizenship and Immigration)*, 2019 FC 547 at paras 18–20; *Weche v Canada (Citizenship and Immigration)*, 2021 FC 649 at para 22; *Garay Moscol v Canada (Citizenship and Immigration)*, 2008 FC 657 at para 21).
- [15] Contradictory statements can be considered in the overall assessment of a claimant’s credibility (*Sun v Canada (Citizenship and Immigration)*, 2020 FC 477 at para 38, citing *Canada (Minister of Employment and Immigration) v Dan-Ash*, [1988] FCJ No 571 (QL), 93 NR 33 (CA)). The role of this Court does not involve conducting such an assessment, nor does it involve reweighing the evidence presented before the RAD, absent exceptional circumstances (see, generally, *Safe Food Matters Inc v Canada (Attorney General)*, 2022 FCA 19 at paras 37–39, and the authorities cited therein). I see no reason to intervene with the RAD’s findings in this case. V. Conclusion [16] For the reasons set out above, this application for judicial review is dismissed. There is no question to certify.
- [17] I thank counsel for their detailed and able submissions. JUDGMENT in IMM-11567-23 THIS COURT’S JUDGMENT is that: The application for judicial review is dismissed. There is no question for certification. “Guy Régimbald” Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-11567-23 STYLE OF CAUSE: SHARATH SRINIVASAN ANTHUR v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: MONTRÉAL (QUÉBEC) DATE OF HEARING: FEBRUARY 4, 2025 JUDGMENT AND REASONS: RÉGIMBALD J. DATED: MARCH 12, 2025 APPEARANCES: Jonathan Gruszczynski For The Applicant Larissa Foucault For The RESPONDENT SOLICITORS OF RECORD: EMJ LEGAL INC. Barristers and Solicitors Montréal, Quebec For The Applicant Attorney General of Canada Montréal, Quebec For The RESPONDENT

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Prepared on 29 October 2026 · Esheria