

CANADA / JUDGMENT

Bahrami v. Canada

(Citizenship and Immigration)

2026 FC 433

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20260402 Docket: IMM-7468-25 Citation: 2026 FC 433 Ottawa, Ontario, April 2, 2026 PRESENT: The
Honourable Madam Justice Turley BETWEEN: VANDAD BAHRAMI Applicant and THE MINISTER
OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1]
The Applicant seeks judicial review of the Refugee Protection Division [RPD]’s decision finding
that his refugee protection had ceased due to reavilment, in accordance with paragraph 108(1)
(a) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]. In my view, the RPD
made unreasonable adverse credibility findings in determining that, on a balance of
probabilities, the Applicant intended to reavail himself of the diplomatic protection of Iran.
These errors are sufficient to render the RPD’s decision unreasonable. There is no need to
address the other alleged errors in the RPD’s cessation analysis. II. Analysis [2] The legal test for
reavilment requires the Minister to prove three elements: (i) voluntariness; (ii) intent; and (iii)
actual reavilment: Canada (Citizenship and Immigration) v Galindo Camayo, 2022 FCA 50 at
paras 18, 20 [Galindo Camayo]. Where, however, an applicant acquires and travels on a passport
issued by their country of nationality, it is presumed that they intended to avail themselves of the
protection of that country. This presumption is rebuttable: Galindo Camayo at paras 63, 65.

- [3] The Applicant, a citizen of Iran, came to Canada in 2001 with his mother and brother. At that
time, he was listed as a dependent child (he was 15) on his mother’s refugee claim. In 2005,
the Applicant was granted refugee status, and he became a permanent resident in 2006.
- [4] In June 2015, the Applicant applied for and obtained an Iranian passport, which he used to
travel to Iran on three occasions, and to Türkiye once, between 2015 and 2020. The onus was
therefore on him to rebut the presumption of intention of reavilment. In assessing intent,
an applicant’s subjective knowledge of the immigration consequences of returning to one’s
country of nationality, namely the loss of refugee status, is a key factual consideration:
Galindo Camayo at para 70.

- [5] The Applicant asserts that he did not have the requisite intention to reavail because he was unaware, when he applied for his passport and used it to travel, that his permanent residence status “was tied to a refugee claim”: Affidavit of Vandad Bahrami affirmed September 23, 2024 at para III, Certified Tribunal Record [CTR] at 84. The Applicant testified that he had not attended the refugee hearing: Transcript of the October 11, 2024 RPD hearing, Applicant’s Record [AR] at 40, 43, 78.
- [6] Furthermore, the Applicant’s evidence was that he only became aware of his refugee status in 2024 upon receiving the Minister’s cessation application: Transcript of the October 11, 2024 RPD hearing, AR at 40; Transcript of the December 18, 2024 RPD hearing, AR at 114, 120. The RPD found that the Applicant’s evidence was not credible in both respects: Reasons and Decision of the Refugee Protection Division dated March 17, 2025 at para 52 [RPD Decision], CTR at 16.
- [7] A finding of reavailment under paragraph 108(1)(a) of the IRPA has significant consequences for the affected individual. Not only can it lead to the loss of their refugee status but, also, to the loss of their permanent resident status and their potential removal from Canada: *Kaban v Canada* (Citizenship and Immigration), 2025 FC 1626 at para 35; *Singh v Canada* (Citizenship and Immigration), 2022 FC 1481 at para 28. Given these consequences, there is a heightened duty on the RPD to provide justified, transparent, and intelligible reasons explaining its decision: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 133; *Galindo Camayo* at paras 49–51. For the following reasons, I find that the RPD’s credibility findings do not pass muster. A. The RPD erred in making a credibility determination based on implausibility [8] The RPD’s first adverse credibility finding concerns the Applicant’s testimony that he did not attend the refugee hearing. Significantly, the Applicant’s refugee file was destroyed by the Immigration and Refugee Board [IRB] under the Records Disposition Authority (RDA) 96/037. As a result, the IRB was unable to provide a copy of the file, nor any other documents, for the purposes of the Minister’s cessation application: Letter dated August 2, 2023, CTR at 59. There is thus no evidence on the record concerning the date of the Applicant’s family’s refugee hearing.
- [9] The only evidence before the RPD was that refugee status was conferred on July 18, 2005: Transcript of the October 11, 2024 RPD hearing, AR at 41–42. Further, the evidence is that the Applicant was advised by mail that his refugee claim was allowed: Minister’s cessation application at para 6, CTR at 51; Minister’s additional disclosure, CTR at 94; Transcript of the October 11, 2024 RPD hearing, AR at 77.
- [10] Despite this lack of evidence, the RPD Member determined that the Applicant’s testimony that he had not attended the refugee hearing was not credible, finding that “he was over the age of 18 at the time of the hearing” and “his attendance would have been required by the RPD”: RPD Decision at para 52, CTR at 16. However, the RAD Member fails to explain this unequivocal conclusion in the absence of any evidence concerning when the refugee hearing occurred.

- [11] This was a live issue at the first day of the RPD's cessation hearing in October 2024. Acknowledging that there was no evidence of when the refugee hearing took place, the RPD Member stated that back then, the hearing "typically" took place on the same day refugee status was conferred: [...] It was a different world back then. Everybody had to show up. You were in front of the board Member. The decision was benched, and you typically, you could get your copy as you're leaving the hearing room. They gave you a copy saying that it was a positive decision. Clearly, that's what it was here. So I just, I just want to satisfy in my own mind that the date sent was contemporaneous with the date of the hearing. Transcript of the October 11, 2024 RPD hearing, AR at 77
- [12] The RPD Member went on to say that the date of the refugee hearing was important because, if the Applicant was an adult at that time, he would have had to be in attendance. She said she would try to locate the refugee hearing date before the cessation hearing resumed in December 2024 and that she would share it with the parties if she was able to locate it. The RPD Member further stated that, if she was unable to locate the hearing date, her understanding was that the parties would have to make an ATIP (access to information) request to obtain the information: Transcript of the October 11, 2024 RPD hearing, AR at 77.
- [13] With respect, given that the IRB had disposed of the Applicant's refugee file, an ATIP request would be futile. Indeed, Minister's counsel confirmed that the only information they were able to obtain, as set out in their additional disclosure, was the date of the letter conferring refugee status and that the letter had been mailed: Transcript of the October 11, 2024 RPD hearing, AR at 77. If the Minister could not obtain any other information for the cessation application, it is unclear how an ATIP request would yield any further information.
- [14] At the resumption of the cessation hearing in December 2024, there was no indication that the RPD Member had been able to locate the hearing date. She simply referred to the information that had been submitted by the Minister before the October 2024 hearing regarding the date refugee status had been conferred: Transcript of the December 18, 2024 RPD hearing, AR, at 87. No additional information was disclosed by the Minister about the refugee hearing date.
- [15] In the circumstances, the adverse credibility finding can only be understood as an implausibility determination based on the RPD Member's understanding of the RPD's general practice at the time the Applicant was granted refugee status. More particularly, the presumption that RPD decisions were issued on the same day as hearings, and that applicants over the age of 18 (by the time of the refugee hearing) were required to attend despite having been a dependent child when they applied for refugee status.
- [16] This Court has consistently held that adverse credibility findings based on implausibility should only be made "in the clearest of cases": *Guni v Canada* (Citizenship and Immigration), 2025 FC 750 at para 14; *Zhu v Canada* (Citizenship and Immigration), 2021 FC 745 at para 26; *Zaiter v Canada* (Citizenship and Immigration), 2019 FC 908 at para 8 [Zaiter]; *Valtchev v Canada* (Minister of Citizenship and Immigration), 2001 FCT 776, [2001] FCJ No

1131 at para 7. To meet this high threshold, there must be “a reliable and verifiable evidentiary base” for the plausibility determination, or it is “nothing more than ‘unfounded speculation’”: *Aguilar Zacarias v Canada (Citizenship and Immigration)*, 2012 FC 1155 at para 11.

- [17] Moreover, decision-makers should be cautious when basing an implausibility finding on past practice or experience, as in this case. As Justice Norris explains, this is because “the mere fact that an event is unlikely given past experience does not entail that it did not (or could not) occur”: *Zaiter* at para 8.
- [18] I find that the RPD’s conclusion is purely speculative. The only facts established on the record are that the Applicant’s refugee claim was filed in September 2001, when he was a minor, and that refugee protection was conferred by letter dated July 18, 2005. There is no evidence regarding when the refugee hearing was held. Nor is there any evidence that it was the RPD’s general practice at that time to render decisions contemporaneously with hearings. Even if that had been the established practice, there is no evidence that it was followed in the Applicant’s case.
- [19] Furthermore, even assuming the Applicant had turned 18 years of age by the time of the refugee hearing, there is no evidence about the RPD’s practice or procedure at that time concerning attendance at hearings. Specifically, the record does not establish that the Applicant would have been required to attend the hearing and that his mother could not have continued as his designated representative.
- [20] For these reasons, the RPD Member’s unequivocal finding that the Applicant was over the age of 18 at the time of the refugee hearing and thus required to attend is without evidentiary foundation. On this basis, the RPD’s adverse credibility finding regarding the Applicant’s testimony that he did not attend the refugee hearing is unreasonable. B. The RPD erred in failing to assess the Applicant’s mother’s evidence [21] The RPD’s second adverse credibility finding relates to the Applicant’s evidence that he was unaware of his refugee status until 2024, after he had travelled on his Iranian passport. He testified that his mother had never disclosed to him that they came to Canada as refugees, and that she had taken care of all the paperwork for their permanent residence status: Transcript of the October 11, 2024 RPD hearing, AR at 43–44.
- [22] The Applicant submitted an affidavit of his mother corroborating this evidence. His mother stated that she deliberately chose not to tell her children that they had acquired permanent residence as refugees because “it was a matter of personal sensitivity and cultural stigma”: Affidavit of Ashraf Bagheri affirmed September 25, 2024 at para II [Affidavit of Ashraf Bagheri], CTR at 85. The Applicant’s mother further explained that she had “personally completed and submitted all immigration applications on their behalf, including those related to their permanent residency, to avoid disclosing the circumstances of [their] original status in Canada”: Affidavit of Ashraf Bagheri at para III, CTR at 85.

- [23] The RPD determined that the Applicant's assertion that he had no knowledge of why his family left Iran in 2001 until 2024 (when he was 38 years old) was not credible: RPD Decision at para 52, CTR at 16. However, in making that finding, the RPD Member failed to address, let alone even mention the Applicant's mother's affidavit evidence. While it was certainly open to the RPD Member to determine that the mother's evidence lacked probative value, it was wholly unreasonable for the RPD to make an adverse credibility finding without engaging with the mother's evidence. It was incumbent on the RPD to evaluate each independent source of evidence before making an adverse credibility finding: *Mutangampundu v Canada (Citizenship and Immigration)*, 2026 FC 318 at para 29, citing *Ruiz v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1339 at para 10.
- [24] Notably, in assessing the Applicant's subjective knowledge of immigration processes, the RPD Member relied on the fact that the Applicant had completed a sponsorship application for his wife in 2016 and a citizenship application in 2020: RPD Decision at para 53, CTR at 16. However, the Applicant testified that, in completing both applications, he identified his status solely as that of a permanent resident: Transcript of the October 11, 2024 RPD hearing, AR at 57; Transcript of the December 18, 2024 RPD hearing, AR at 114. This testimony is consistent with the Applicant's assertion that he remained unaware of his refugee status until he received the Minister's cessation application in 2024.
- [25] Based on the foregoing, the RPD's adverse credibility finding concerning the Applicant's evidence about when he became aware of his refugee status is unreasonable. III. Conclusion
- [26] The application for judicial review is granted. The matter is remitted to the RPD for redetermination by another member.
- [27] The parties did not propose any questions for certification, and I agree that none arise. JUDGMENT in IMM-7468-25 THIS COURT'S JUDGMENT is that: The application for judicial review is allowed. The Refugee Protection Division's decision dated March 17, 2025, is set aside and the matter is remitted for determination by a differently constituted panel. No question is certified for appeal. "Anne M. Turley" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: imm-7468-25 STYLE OF CAUSE: VANDAD BAHRAMI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: BY VIDEOCONFERENCE DATE OF HEARING: MARCH 25, 2026 judgment and reasons: TURLEY J. DATED: APRIL 2, 2026 APPEARANCES: Andrew Boogaard For The Applicant Ada Mok For The Respondent SOLICITORS OF RECORD: Lee & Company Barristers and Solicitors Toronto, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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