

CANADA / JUDGMENT

Bhuiyan v. Canada (Citizenship and Immigration)

2026 FC 616

COURT

Federal Court

DECIDED

12 May 2026

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Bhuiyan v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2026-05-12

Neutral citation

2026 FC 616

File numbers

IMM-16507-24

Decision Content

Date: 20260512

Docket: IMM-16507-24

Citation: 2026 FC 616

Ottawa, Ontario, May 12, 2026

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

ALI AZAM BHUIYAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS AND JUDGMENT

- [1] The Applicant seeks judicial review of a decision made by Immigration and Refugee Board of Canada's Refugee Appeal Division [RAD] on August 23, 2024 [the Decision]. The RAD's Decision dismissed the Applicant's appeal from the Refugee Protection Division [RPD] decision that dismissed the Applicant's refugee claim filed in May 2023. The RAD, like the RPD had before it, found that the Applicant did not establish that he was either a Convention refugee pursuant to s. 96 of the Immigration and Refugee Protection Act [IRPA], or a person in need of protection pursuant to s. 97 of the IRPA.
- [2] After having heard the submissions of parties, considered the evidence in the record as well as the parties' written representations, and having carefully considered the RAD's Decision in light of the record that was before it, the Court comes to the conclusion that the Applicant has not established that the Decision is either unreasonable or made in breach of the Applicant's rights of procedural fairness.
- [3] The Applicant's application for judicial review is dismissed for the reasons that follow.

I. Background A. The Basis of Claim [4] The Applicant is a citizen of Bangladesh.

- [5] The Applicant has dedicated himself to becoming a scholar in religious studies. He spent a number of years studying in difference madrasas and became a Hafez [sic!] in 2001 (it is uncontested in the proceeding that a hafiz is a person who has memorized the Quran and is traditionally a highly respected member of their community).
- [6] The Applicant left Bangladesh for the Kingdom of Saudi Arabia [the KSA] on May 28, 2004, to engage in further study, to learn from other religious scholars, and to find employment. The Applicant found a job with a security company and engaged in his continued religious studies.
- [7] The Applicant's studies caused him to conclude that the way Islam is taught in Bangladesh is seriously flawed because it focusses on divisions between people rather than on the overriding message of inclusiveness and peaceful coexistence that he explored throughout his studies. The Applicant also formed the belief that all levels of government in Bangladesh engaged in bribery and corruption as a standard practice, and that such conduct is at odds with the teachings found in the Quran.
- [8] The Applicant's accomplishments resulted in his receiving invitations to speak and to give sermons at various places within and outside of Bangladesh. He gave many sermons when he returned to Bangladesh. His sermons and their content about how corruption, bribery and other related behaviours are inconsistent with Islam caught the attention of local political leaders in Chittagong, Bangladesh.

[9] While the Applicant resided in the KSA between May 2004 and November 2022 during his studies, he returned to Bangladesh on a number of occasions. The Applicant's return visits to Bangladesh between 2008 and 2022 inform the narrative of his claim for refugee protection as follows:

a) Visit 1: December 6, 2008 to March 9, 2009.

The Applicant returned to Chittagong to visit his family, attend a few seminars, and talk at sessions where he had been invited to speak. He discovered during this visit that the political climate had changed in Bangladesh and that the government was scrutinizing grassroots activities.

b) Visit 2: January 23, 2012 to April 24, 2012.

The Applicant returned to Bangladesh primarily for his wedding, but also to speak at various events.

The Applicant was a guest speaker at a very well attended event during this time and focussed on talking about how corruption and bribery and such other behavior destroys society. A small group of 8-10 people led by Mr. Ali Asgar Bhuiyan [Asgar], the vice president of the union Awami League and one of the senior members of religious hard liner Ulama League, itself a branch of the ruling party Awami League, shouted profanities at the Applicant, took the microphone from the Applicant and kicked his chair on the stage while insulting him verbally. The Applicant claims that Asgar behaved aggressively toward him and that he said he would slap the Applicant if he dared to criticize the government. One of Asgar's thugs shouted to the Applicant that he would be forced out of the locality if he ever he dared to criticize the government.

The next day, people known to be Asgar's associates came to the Applicant's parents house, demonstrated an aggressive attitude, and labelled the Applicant a "razakar" and told them that they would destroy the Applicant's family for the good of the country if need be (it is not contested that "razakar" is derogatory term used for designating enemies of the state in Bangladesh).

The Applicant returned to the KSA on April 24, 2012.

c) Visit 3: May 3, 2013 to July 14, 2013.

The Applicant returned to Bangladesh to see his first-born son. The Applicant claims that he returned secretly, but he continued to volunteer as an Imam in a local mosque where he volunteers whenever he is in Bangladesh.

The Applicant made regular sermons at a local mosque on Fridays during this time. His sermons continued to be focused on Islam's position against oppression, corruption, deception and highlighted the need to stand up against such behaviour. Asgar's associates and/or thugs interrupted the Applicant's sermons. The Applicant was humiliated by Asgar's associates and/or thugs, and he claims to have received undescribed threats on a regular basis. The Applicant avoided going out as much as possible in order to avoid being attacked by Asgar's people.

On May 12, 2013, the Applicant went out and was stopped by Asgar and some of his followers. The Applicant was shouted at, pushed by some, and slapped by others. He pushed his way out of the situation and ran away. As he was running, he was hit in the back by a brick that had been thrown at him. The Applicant attempted to file a complaint at the local police station but the police on duty told him to go away.

The Applicant returned to the KSA on July 14, 2013.

d)Visit 4: September 23, 2014 to December 26, 2014.

The Applicant returned to Bangladesh to see his family. He claims that he returned almost in secrecy, and remained almost hidden the entire time. Asgar was not in the area when the Applicant arrived.

The Applicant's stay was peaceful until Mohammad Firuz, an alleged close associate of Asgar's, came to the house where the Applicant was staying and asked to speak with the Applicant. The Applicant spoke with Mr. Firuz and walked with him. Mr. Firuz demanded 200,00 taka from the Applicant to remain silent about his presence in Bangladesh. Mr. Firuz also demanded that the Applicant not attend sermons. The Applicant acceded to Mr. Firuz's demand, and paid the money demanded.

The Applicant returned to the KSA on December 26, 2014.

e)Visit 5: December 16, 2017, to March 23, 2018.

The Applicant returned to Bangladesh to see his second son. Instead of returning to Chittagong, the Applicant decided to stay in Dhaka and brought his family to him.

On December 24, 2017, a group of people known to be associates of Asgar and Mr. Firuz attended at the Applicant's younger brother's house to ask about the Applicant's whereabouts. They apparently told the Applicant's younger brother that they knew that the Applicant was in Dhaka, and that he would be a dead man soon.

The Applicant returned to the KSA on March 23, 2018.

f)Visit 6: April 30, 2021 to October 24, 2021.

The Applicant returned to Chittagong and tried to live a normal life.

The Applicant claims that he was summoned to the local Awami League office by its local president, Mr. Azad. The Applicant attended and found Asgar and Mr. Firuz already there, seated. A conversation ensued between the Applicant and Mr. Azad. They discussed the Applicant's return to Chittagong, the completion of his studies in the KSA, and the knowledge the Applicant had gained through his years of further study. Mr. Azad told the Applicant to take his "lectures of morality and to shove them". The Applicant returned home feeling useless.

The Applicant returned to the KSA on October 24, 2021.

g) Visit 7: October 15, 2022, to November 21, 2022:

The Applicant applied for and obtained a visa to go to the US in September 2022. The Applicant claims to have known at the time that he would eventually come to Canada. He resolved to go back to Bangladesh again.

On October 20, 2022, Asgar's thugs grabbed the Applicant from his home and brought him to the village market. Asgar was present. The thugs beat the Applicant. The beating stopped when local people from the market asked for the Applicant's release.

The Applicant filed a GD (general diary request) with the local police the next day.

[10] The Applicant left Bangladesh approximately one month later and went to New York. After spending some time in the US and finding it to be less than desirable, the Applicant came to Canada.

[11] A Departure Order was issued against the Applicant on February 27, 2023.

[12] The Applicant filed his Basis of Claim form that set out the above facts and claims, as well as his request for refugee protection on May 15, 2023.

B. The Basis of Claim narrative Addendum [13] The Applicant filed a narrative addendum to his BOC on March 20, 2024.

[14] The Applicant alleged in his narrative addendum that he learned of additional events from his spouse and his Bangladeshi lawyer, Advocate Mia, when he contacted them over the phone on an unspecified date.

[15] The Applicant learned that a court letter had been received at his home in Chittagong on March 7, 2023. The letter contained a March 1, 2023, summons for the Applicant to appear in Court in Bangladesh on March 25, 2023, in connection with a case filed against the Applicant by Asgar on December 29, 2022, under the Bangladeshi Digital Security Act, 2018. Advocate Mia asked for more time from the Court and a hearing date was fixed for December 14, 2023. The Applicant learned from Advocate Mia that he would be arrested when he would attend court.

[16] Another hearing date was fixed for January 18, 2024. The Applicant did not attend. The court, he claims, declared him as absconding and ordered the police to issue an arrest warrant against him.

[17] The Applicant's spouse called him one last time after the arrest warrant had been issued in January 2024, and then she went into hiding.

C. The RPD decision [18] The RPD determined that the Applicant was not a Convention refugee because he does not have a well-founded fear of persecution related to a Convention ground. The RPD also found that the Applicant is not a person in need of protection, in that his removal to Bangladesh would not on a balance of probabilities subject him personally to a risk to life or to a risk of cruel and unusual treatment or punishment, or to a danger of torture.

[19] The determinative issue for the RPD was documentary and testimonial credibility.

[20] The RPD determined that the First Information Report [the FIR] from Bangladesh produced by the Applicant was not genuine when considered in light of the evidence contained in the National Documentation Package for Bangladesh [the NDP] due to the document's omission of signatures or the informant's thumb print, which are required elements of a genuine FIR. This determination had a significant negative impact on the Applicant's overall credibility and on the credibility of his core allegations because the Applicant's claim that he was wanted by the authorities in Bangladesh was unsupported by reliable documentary evidence.

[21] The RPD determined that the Applicant's inconsistent testimony regarding when his spouse went into hiding also negatively impacted his credibility. The RPD considered that when and why the Applicant's spouse went into hiding was a central element of his claim because the Applicant alleged that the authorities were looking for him in Bangladesh and had been threatening his wife to the point that she had to relocate and go into hiding. The RPD found that the Applicant's testimony was evolving when he was asked questions about the inconsistencies between his BOC, his amended narrative, and his testimony on this issue.

[22] The RPD also determined that there were a number of unresolved inconsistencies between the Applicant's allegations and evidence of being assaulted by his alleged agents of persecution in March 2012 and in May 2013.

[23] The RPD also found that the Applicant had led insufficient evidence to establish that he had been persecuted in Bangladesh, that he had spoken out against corruption, or that he was likely to denounce corruption in the future. The RPD gave some weight to the documentary evidence produced to establish that the Applicant had given an anticorruption sermon in March 2012 and had faced difficulties from the Awami League as a result, but found that there was little credible documentary evidence of the Applicant's anti-corruption activities and sermons after March 2012.

D. The Appeal and the Decision [24] The Applicant appealed to the RAD.

- [25] The Applicant sought to have new evidence admitted for the purposes of appeal. The new evidence consisted of a mental health assessment report dated June 10, 2024, made following an assessment made on May 9, 2024, and a new letter from his Bangladeshi advocate. The Applicant made inconsistent representations as to whether the new evidence he sought to lead warranted an oral hearing pursuant to subsection 110(6) of the IRPA: on the one hand, he indicated that he wished an oral hearing, and on the other hand, in response to the question of “How does the evidence mentioned in part 3.1 on the memorandum meet the requirements of section 110(6) of the IRPA?” the Applicant answered “N/A”.
- [26] The grounds of appeal advanced were limited to a) whether the RPD erred in finding the FIR fraudulent; b) whether the Applicant had been fettered by psychological barriers before the RPD; and c) whether the RPD panel erred by relying on the errors and omissions due to incompetent translation during the RPD hearing.
- [27] Prior to the hearing, the RAD provided a notice to the Applicant that indicated that it had identified credibility issues and sought additional submissions. The issues identified were a) why he had omitted mentioning in his original BOC signed in May 2023 that he had instructed a lawyer in Bangladesh in March 2023; b) why he had failed to mention his own periods in hiding in his intake forms, and c) his several trips back to Bangladesh. The Applicant provided additional written submissions on each of these issues.
- (1) New evidence on appeal [28] The RAD admitted the Applicant’s new evidence contained in the mental health assessment report because, considering subsection 110(4) of the IRPA and the test to be applied pursuant to *Canada (Citizenship and Immigration) v. Singh*, 2016 FCA 96, and *Raza v. Canada (Citizenship and Immigration)*, 2007 FCA 385 for the admission of new evidence on appeal, the report was new, was credible and was relevant.
- [29] The RAD did not accept the letter from the Applicant’s Bangladeshi advocate as credible new evidence. The Applicant’s advocate sought to explain that the reason the produced FIR had no complainant’s signature was because when a person requests a copy of court documents in Bangladesh, a court employee does not copy the document, but rather reproduces it. The court employee cannot reproduce the signature; therefore, the signature is missing from the copy of the FIR that had been produced.
- [30] The RAD reasoned that the advocate’s explanation was inconsistent with documentary evidence found in the NDP at item 9.4, and in Response to Information Request (RIR) BGD105614.E, which report that court documents are provided as certified copies not certified reproductions.
- [31] The RAD also found that the advocate’s explanation was not plausible because it does not make sense that a judicial court would not copy the documents they stamp to be true copies given the vast availability of copy technology and concerns with human error. The RAD also noted that courts in Bangladesh have approved the use of digital and electronic evidence which supports the sophistication of the court document system. Therefore, the explanation

that judicial courts in Bangladesh have clerks to reproduce documents without signatures was found not credible.

- (2) The merits of the appeal [32] The RAD reviewed the transcript of the hearing and concluded that the RPD had not denied the Applicant adequate interpretation. The RAD nevertheless agreed with the Applicant that the RPD had erred in drawing a negative inference from the interpretation of the word pathara, which means either a stone or a brick. The RAD noted that the Applicant's counsel interjected before the RPD when a key translation issue arose and that such timely interjection was consistent with the requirement of objecting at the earliest opportunity if there was an issue to be addressed.
- [33] The RAD considered the standard of interpretation to be met as described in the jurisprudence, that is, that the interpretation be precise, continuous, competent, impartial and contemporaneous, without the requirement of being perfect (*Singh v. Canada (Citizenship and Immigration)*, 2010 FC 1161, at para. 3). The interpretation was such that the Applicant understood and interpreted and adequately expressed himself through the interpreter (*Lawal v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 861 at para. 26). The RAD concluded that the Applicant had not established that he did not understand the interpretation provided or that he was not adequately able to express himself through the interpreter. The Applicant's appeal on this ground was rejected.
- [34] The RAD considered the new evidence of the Applicant's psychological state as it was diagnosed after the RPD hearing. The RAD noted that the Applicant had not pointed to any areas of his testimony before the RPD where he was unable to answer. The RAD found that the Applicant had not established that his psychological health had prevented him from fully participating in the hearing before the RPD. This ground of appeal was also rejected.
- [35] The RAD then considered the FIR and its content. The RAD considered the Applicant's argument that the FIR was genuine and that the documents related to the FIR were equally genuine and should have been given weight. The RAD considered the Applicant's argument that Bangladeshi court documents are reproduced, not copied, when requested by a party. The RAD rejected these arguments as they were contrary to the objective country condition evidence that judicial courts in Bangladesh provide certified true copies of court documents, and also because the Applicant had not provided any credible evidence that Bangladeshi courts operate otherwise.
- [36] The RAD went further than the RPD in its consideration of the FIR and observed that the translation FIR provided pretended that there were illegible signatures where the signatures of the sub-inspector, the magistrate and the officer in charge, when there were no signatures shown on the Bengali version of the produced document. The translator of these documents was the Applicant's first advocate. Later documents actually show illegible signatures.
- [37] The RAD also considered that the Digital Securities Act reflected in the FIR relates to information posted on the internet, and publishing, disseminating and broadcasting defamatory information. The Applicant presented no evidence that he published anything

on the internet or otherwise that was critical of the Bangladeshi government. The apparent charges against him were for speaking at a local mosque when he was in the country, and not in connection with any digital communications of any kind. The Applicant's argument that the RPD had erred in its consideration of the FIR was rejected.

- [38] The RAD considered the deposition and summons documents related to the FIR and found inconsistencies similar to those it found in the FIR. The deposition that gave rise to the FIR was given no weight because it did not provide any details regarding the parts of the Applicant's speech which were of concern, such that an official would not be able to determine whether the speech alleged was defamatory or not. The first advocate's letter was given no weight because it was tainted by the FIR and the deposition, and because it is reasonable to expect that a genuine advocate would not provide false information while providing translation services.
- [39] The RAD then turned to consider the credibility issues it had highlighted in its notice and the Applicant's submissions regarding the same. As to the first issue - why he had omitted mentioning in his original BOC signed in May 2023 that he had instructed a lawyer in Bangladesh in March 2023 - the Applicant submitted that he relied on his former counsel's assistant in completing his BOC, and the assistant had not asked him any questions about his lawyer in Bangladesh or a court summons. He did not mention the summons when preparing his BOC despite being aware of the alleged summons as of March 25, 2023. The RAD did not accept this explanation as a reasonable one considering that the Applicant alleged that he was wanted by the authorities in Bangladesh.
- [40] The Applicant raised a veiled argument that his first counsel was incompetent but failed to give his former counsel an opportunity to respond to the allegation of their incompetence.
- [41] The Applicant's responses regarding the omissions of his time in hiding in Dhaka were also considered unreasonable. The RAD considered that if the Applicant was compelled to live in Dhaka to hide during any of his trips home, then it is reasonable to expect that he would have included such information in his intake forms.
- [42] Finally, the RAD found that the Applicant's explanations for his various visits to Bangladesh, and the possibility that visits constituted reavilment, were not reasonable. The RAD found that the Applicant's conduct was not consistent with a well-founded fear of persecution.
- [43] The RAD found that the Applicant had not established that he was targeted in Bangladesh, or that he is wanted by Bangladeshi authorities.
- [44] The RAD dismissed the Applicant's appeal.

II. The Issues [45] The Applicant presents a number of issues to be considered. I reformulate them as follows:

Were the RAD's findings that the FIR produced is non genuine, and that the supporting documents should be given no weight, reasonable? Were the RAD's reavailment findings unreasonable? Did the RAD unreasonably reject the advocate's letter as new evidence, based on selective reading of the NDP, and an unreasonable plausibility finding? Did the RAD err in failing to hold an oral hearing, as it found the Advocate's letter not credible without giving the Applicant a chance to respond, as it raised new reasons for making negative credibility findings? Did the RAD make an unreasonable credibility finding by failing to consider the Applicant's explanation for an inconsistency regarding his wife's relocation?

[46] The Applicant submits that the alleged breaches of procedural fairness are to be reviewed on the standard of correctness and that the decision to refuse to provide the Applicant with an oral hearing on appeal is to be determined on the standard applicable to matter of natural justice. The issues that remain, however, are to be determined on the reasonableness standard.

[47] The Respondent's perspective is narrower in that in its argument the sole question is whether the RAD's decision is reasonable within the meaning of a reasonableness review as discussed in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

III. The Applicable Standards of Review [48] The RAD's ruling not to admit evidence presented as new evidence is reviewable on a standard of reasonableness (*Vargas Cervantes v Canada (Citizenship and Immigration)*, 2024 FC 791 at para 19; *Khelili v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 188 at para 14; *Khan v Canada (Citizenship and Immigration)*, 2020 FC 438 at para 21 [Khan]).

[49] Similarly, the RAD's assessment of the record and findings on credibility issues are also reviewable on the standard of reasonableness (*Munyandamusa v Canada (Citizenship and Immigration)*, 2024 FC 12 at para 15; *Khan* at para 21).

[50] While there had been some unsettled jurisprudence in the past as to the standard of review applicable to the RAD's decision to not hold an oral hearing pursuant to subsection 110(6) of the IRPA, there appears be a consensus that the RAD's decision whether to admit new evidence under subsection 110(4) of the IRPA, and its decision whether to hold an oral hearing because of the new evidence under subsection 110(6) of the IRPA, involves the interpretation of the specific criteria set out in the statute which is therefore assessed under the reasonableness standard (*Ajayi v. Canada (Citizenship and Immigration)*, 2023 FC 1155; *Singh v. Canada (Citizenship and Immigration)*, 2016 FCA 96, at paras 29 and 74; *C.D. v. Canada (Immigration, Refugees and Citizenship)*, 2022 FC 1582 at paras 6-12). When the focus of the requested oral hearing turns on questions of credibility, and on serious issues relating to credibility that are central to the decision, then the standard of review is the standard applicable to question of procedural fairness and is near the standard of correctness (*Shen v. Canada (Citizenship and Immigration)*, 2022 FC 1456, at paras 31 to 38).

- [51] The reasonableness standard was explained by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. The Supreme Court of Canada summarized the analytical approach set out in Vavilov in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7-8 as follows:
- [7] In Vavilov, this Court revised the framework for determining the standard of review. The Court established a presumption that the standard of review of the merits of an administrative decision is reasonableness, subject to limited exceptions based on legislative intent or when required by the rule of law (paras. 10 and 17). The revised framework seeks to maintain the rule of law, while respecting a legislature's intent to entrust certain decisions to administrative decision makers rather than courts (paras. 2 and 14). It also aims to bring simplicity, coherence, and predictability to the law on the standard of review and to eliminate the unwieldy exercise of determining the standard of review based on contextual factors, as had been required by this Court's jurisprudence following *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 (Vavilov, at paras. 7 and 10).
- [8] Vavilov also explained how a court should conduct reasonableness review. This Court stressed that reasonableness review and correctness review are methodologically distinct (para. 12). Reasonableness review starts from a posture of judicial restraint and focusses on "the decision the administrative decision maker actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker's place" (paras. 15 and 24). When an administrative decision maker is required to provide reasons for its decision, reasonableness review requires a "sensitive and respectful, but robust" evaluation of the reasons provided (para. 12). A reviewing court must take a "reasons first" approach that evaluates the administrative decision maker's justification for its decision (para. 84). An administrative decision will be reasonable if it "is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrain the decision maker" (para. 85). This Court also affirmed "the need to develop and strengthen a culture of justification in administrative decision making" (para. 2).
- [52] It is the Applicant's onus to demonstrate that "any shortcomings or flaws are sufficiently central or significant to render the decision unreasonable" (Vavilov at para 100). Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (Vavilov at para 125).
- [53] By contrast, as noted by the Federal Court of Appeal in *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 55-56 [CPR], the review that might apply to an alleged breach of procedural fairness focusses on whether the applicant knew the case to meet and had a full and fair chance to respond. The review proceeds on a standard that is closer to a correctness review:

- [55] Attempting to shoehorn the question of procedural fairness into a standard of review analysis is also, at the end of the day, an unprofitable exercise. Procedural review and substantive review serve different objectives in administrative law. While there is overlap, the former focuses on the nature of the rights involved and the consequences for affected parties, while the latter focuses on the relationship between the court and the administrative decision maker. Further, certain procedural matters do not lend themselves to a standard of review analysis at all, such as when bias is alleged. As Suresh demonstrates, the distinction between substantive and procedural review and the ability of a court to tailor remedies appropriate to each is a useful tool in the judicial toolbox, and, in my view, there are no compelling reasons why it should be jettisoned.
- [56] No matter how much deference is accorded administrative tribunals in the exercise of their discretion to make procedural choices, the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to respond. It would be problematic if an a priori decision as to whether the standard of review is correctness or reasonableness generated a different answer to what is a singular question that is fundamental to the concept of justice—was the party given a right to be heard and the opportunity to know the case against them? Procedural fairness is not sacrificed on the altar of deference.
- [54] As with a reasonableness review, the onus lies with the Applicant to establish that their rights of procedural fairness were breached.

IV. Arguments and Analysis A. The RAD's finding that the FIR produced is not genuine, and that the supporting documents should be given no weight, are reasonable [55] The Applicant first argues that the RAD's determination that the FIR was fraudulent was unreasonable because it was based on a selective reading of the NDP and ignored contradictory items of the NDP. The RAD's findings that the deposition and summons should be afforded no weight is argued as being unreasonable for similar reasons.

- [56] The Applicant acknowledges that the RAD relied on item 9.4 of the NDP in making its decision that the FIR was not genuine on a balance of probabilities because it was not a certified copy of the actual document. He nevertheless argues that the RAD engaged in a selective reading of the NDP by failing to take into account that the document met the requirements for authenticity set out in paragraph 4.1 of item 9.4, as well as the requirement of NDP item 10.7. The Applicant also argues that the RAD considered section 29 of the Digital Security Act, when the FIR produced refers to accusations pursuant to sections 23 and 25 and not section 29 of the Act. Finally, the Applicant argues that the RAD failed to consider that many items in the NDP establish that the Digital Security Act applies to a broader range of behaviour and is not limited to digital conduct. The failure to consider this broader application of the Act shows, he argues, that the RAD failed to consider contrary evidence in its decision.

- [57] The Respondent argues that the RAD's approach and consideration of the FIR in light of the NDP was reasonable and that the Applicant is rearguing the evidence by which he had hoped to persuade the RAD for achieve a different and more favourable finding.
- [58] The FIR produced in the record before the Court does not exhibit the features described in the objective country condition evidence for an FIR to be considered genuine. The produced FIR is inconsistent with the objective evidence that reflects that the courts in Bangladesh issue certified copies that are actual copies and not reproductions of the documents in the court file. It also does not reflect either the signature or thumb print of the informant. This signature is a necessary component of an FIR for it to be considered genuine pursuant to item 10.7, paragraph 3.2 of the NDP.
- [59] I am not persuaded that the RAD engaged in a selective reading of the NDP as is argued by the Applicant. The Decision reflects that the RAD considered the evidence contained in the NDP in light of the content of the FIR in Bengali and its translation to English and wrote about the directly applicable NDP item in light of the arguments advanced and the evidence led. The RAD finding that the FIR was not genuine and therefore fraudulent is justified by the evidence in the record and there is no reason for this Court to interfere with it.
- [60] The Applicant's argument that the RAD erred in its consideration of the content of the charges listed in the FIR conflates questions pertaining to the genuineness of the FIR with its meritoriousness. These are separate issues and only the genuineness of the FIR is at issue in this case. The Court acknowledges that the RAD considered the charges alleged and that their apparent departure from the facts spoken to by the Applicant caused concerns which further undermined the FIR's genuineness. The RAD's consideration of the meritoriousness of the alleged charges was not determinative of its findings regarding the FIR. The Applicant's argument does not establish that the RAD acted unreasonably in considering the charges purportedly advanced against the Applicant in determining that the FIR was probably not genuine.
- [61] The RAD's findings that the deposition and the summons are similarly lacking genuineness on the balance of probabilities are also supported by the evidence in the record. The RAD explained its reasoning and justified its determinations on the evidence in the record.
- [62] The Applicant has not persuaded the Court that the RAD considered the FIR fraudulent based on a selective reading of the NDP, or ignored contrary items in the NDP. The Applicant has also not persuaded the Court that the deposition and summons were inappropriately given no weight.

B. The RAD's reavilment findings reasonable [63] The Applicant argues that the RAD's reavilment findings were unreasonable because the RAD failed to consider the Applicant's reasons for his return to Bangladesh and failed to assess whether the subsequent instances of persecution upon his return to Bangladesh supported his fears.

- [64] The RAD did not find that the Applicant had been persecuted in the past. It therefore was not required to consider whether there were compelling reasons pursuant to section 108 of the IRPA for the Applicant to return to Bangladesh. A reavilment analysis was not required. Madam Justice Layden-Stevenson explained the situation as follows at paragraph 5 of *Brovina v. Canada* (Minister of Citizenship and Immigration), 2004 FC 635:
- [5] The difficulty with this argument is that the RPD did not find that Mrs. Brovina had suffered past persecution. For the board to embark on a compelling reasons analysis, it must first find that there was a valid refugee (or protected person) claim and that the reasons for the claim have ceased to exist (due to changed country conditions). It is only then that the Board should consider whether the nature of the claimant's experiences in the former country were so appalling that he or she should not be expected to return and put himself or herself under the protection of that state.
- [65] This reasoning has been applied regularly by this Court (*Validzic v. Canada* (Citizenship and Immigration), 2023 FC 670, at para 14; *Krishan v Canada* (Citizenship and Immigration), 2018 FC 1203, at para 76; *Zuniga v. Canada* (Citizenship and Immigration), 2020 FC 488, at para 20; *Kozyreva v. Canada* (Citizenship and Immigration), 2010 FC 1013, at para 19; *Horvath v. Canada* (Citizenship and Immigration), 2012 FC 1132, at para 64, and the cases cited in each of them), and there is no reason argued for the Court to depart from that reasoning on the facts of this case.
- [66] The Applicant's argument that the Decision is unreasonable for failing to engage in a full reavilment analysis when such an analysis was not required in light of the facts must be rejected.

C. The RAD's rejection of the advocate's letter as new evidence was reasonable [67] The Applicant argues that the RAD unreasonably rejected the Applicant's request to have another letter from his advocate included as evidence on appeal on the basis that the content of the letter was not credible in light of the objective country evidence regarding the court providing certified copies. The Applicant argues that the RAD's rejection of the letter is based on an implausibility finding and on a selective reading of the objective country evidence.

- [68] The Applicant's argument is not persuasive when the content of the Decision is properly considered.
- [69] The RAD rejected the advocate's letter because the evidence in the letter was not consistent with objective country condition evidence which reports that court documents are provided as certified copies and not as certified reproductions. While it is accurate to state that the RAD found the explanation for the FIR's deficiencies implausible, implausibility was not the basis for the letter's rejection. The absence of credibility was. The RAD's reasoning on this point is set out in the Decision. The reasoning was justified by the evidence in the record. The Applicant has not persuaded the Court that there are grounds to interfere with it.

D. The RAD did not err in refusing to hold an oral hearing [70] The Applicant argues that the RAD breached the requirements of procedural fairness by failing to provide him with a chance to respond to the RAD's credibility concerns and by failing to hold an oral hearing. He advances several arguments in this regard.

[71] First, he argues that the RAD failed to raise new credibility concerns regarding the advocate's letter and breached his rights of procedural fairness as a result. The Court cannot agree. The RAD considered the factors set out subsection 110(6) of the IRPA, the applicable jurisprudence, and found that the new evidence did not raise a serious issue with respect to the Applicant's credibility. The RAD exercised its discretion to not hold an oral hearing as a result. The RAD's decision was reasonable.

[72] Second, the Applicant argues that the RAD's credibility findings on its assessment of the evidence which go beyond the credibility findings made by the RPD required the RAD to provide the Applicant with an oral hearing to respond to the new credibility issues failing which there is a breach of procedural fairness.

[73] The Respondent argues that the Applicant's argument is essentially that he had a right to be given notice of the RAD's draft reasons for decision and to be provided an opportunity to respond.

[74] The Decision reflects that the RAD provided the Applicant with notice and with an opportunity to respond to potential additional credibility issues as set out in the notice provided by the RAD. As noted above, the Applicant responded. An oral hearing was therefore not necessary because the Applicant had responded with respect to the potential additional credibility findings (*Laag v. Canada (Citizenship and Immigration)*, 2019 FC 890, at para 23; *Husian v. Canada (Citizenship and Immigration)*, 2015 FC 684, at para 10).

E. The RAD did not make an unreasonable credibility finding regarding the Applicant's wife's relocation [75] The Applicant argues that the RAD failed to consider the Applicant's explanation for inconsistencies in his evidence regarding his spouse's relocation while in hiding.

[76] The RAD noted that the Applicant had not argued against the RPD's finding that he lacked credibility when he provided two different dates for his spouse's relocation without explaining why he offered up two different dates. The RAD agreed with the RPD that the Applicant's wife's relocation is a central issue in his claim for protection because he alleged that his wife is in danger because of him. The RAD found that it was reasonable to expect that the Applicant would recall these dates with consistency because of the nature of the fact and of the events, and that the failure to do so gave rise to a negative inference.

[77] The Applicant has not established that the RAD finding the same as the RPD did in this regard is unreasonable in light of the evidence in the record.

V. Conclusion [78] The Applicant has not established that the Decision is either unreasonable or was made in breach of his rights of procedural fairness. As explained above, the Court finds the Decision reasonable. There is no basis for the Court to interfere with the Decision.

[79] Neither party has suggested that a serious question of general importance is involved in this proceeding. The Court agrees that there is no such question involved.

JUDGMENT in IMM-16507-24

THIS COURT'S JUDGMENT is that:

The Applicant's application for judicial review is dismissed.

There is no serious question of general important to be certified.

No costs are awarded to either party.

"Benoit M. Duchesne"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-16507-24

STYLE OF CAUSE:

ALI AZAM BHUIYAN v. MCI

PLACE OF HEARING:

toronto, ontario

DATE OF HEARING:

november 17, 2025

REASONS aND JUDGMENT:

duchesne, j.

DATED:

may 12, 2026

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Prepared on 28 October 2026 · Esheria