

CANADA / JUDGMENT

Forbes v. Canada (Citizenship and Immigration)

2026 FC 438

COURT
Federal CourtDECIDED
2 April 2026

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Forbes v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-04-02 Neutral citation 2026 FC 438 File numbers IMM-21631-24 Decision Content Date: 20260402 Docket: IMM-21631-24 Citation: 2026 FC 438 Toronto, Ontario , April 2, 2026 PRESENT: Mr. Justice Brouwer BETWEEN: Jhana-Dee Raneque Forbes Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS

- [1] The Applicant, Jhana-Dee Raneque Forbes, seeks judicial review of a decision of the Refugee Appeal Division [RAD], in which the RAD allowed the Respondent Minister's appeal and found that she did not qualify for refugee protection. As explained below, although most of Ms. Forbes' arguments fail, I agree with her that the RAD's treatment of her corroborating evidence was unreasonable and I therefore grant the application. I. Background [2] Ms. Forbes is a 29-year-old citizen of Jamaica. She entered Canada on October 23, 2021, and a month later sought refugee protection. She alleged a well-founded fear of persecution based on her sexual orientation as a lesbian.
- [3] Ms. Forbes retained Robin Edoh, a registered immigration consultant, to represent her in her claim, and Mr. Edoh submitted her Basis of Claim Form [BOC] and supporting evidence to the Refugee Protection Division [RPD] on her behalf.
- [4] On August 30, 2023, the Respondent Minister applied to intervene in Ms. Forbes' claim, seeking the disclosure of Ms. Forbes' BOC and those of eight other claimants on the basis that their BOC narratives bore numerous striking similarities, and observing that, although unrelated to Ms. Forbes, all the affected claimants were represented by the same consultant, Robin Edoh, at the time their claims were filed. The Minister noted further that Mr. Edoh had been suspended by his regulatory body, the College of Immigration and Citizenship Consultants [CICC], and that all the claimants had thereupon retained the same counsel to replace him. No evidence or arguments were adduced regarding the reasons for Mr. Edoh's suspension.

- [5] The RPD granted the Minister's application to intervene in writing, and the hearing took place on March 7, 2024, before the RPD. The following exchange took place at the outset: MEMBER: Alright, so, I've started the recording, so we're on the record now. The file number is TC3-13701. Today is Thursday, March 7, 2024, in the morning, Eastern Standard Time. And if I may introduce myself, my name is Joseph Berkovits. I'm a member of the Immigration and Refugee Board of Canada and Counsel. Mr. [Edoh], may I ask you to kindly identify yourself for the record? COUNSEL FOR THE CLAIMANT: Yes, Mr. Member, my name is Robin Edoh. I am a veteran and a consultant for many years but now I'm a lawyer (inaudible) lawyer going through my certification and I'm a member of the ICRC and I will be representing Jhana-dee for this morning. Good morning, Mr. Member. MEMBER: Thank you. So, Mr. Edoh, there has been -- there was another representative involved at some point. COUNSEL FOR THE CLAIMANT: Yes -- no, the file was transferred to me. MEMBER: When you -- when this file began, were you starting with it when the Basis of Claim form was created? Were you with this file or was it a Mercedes? COUNSEL FOR THE CLAIMANT: I was with this file when the Basis of Claim form was created and it was moved to Mercedes's office -- Mercedes's office back to my office. MEMBER: You were -- there was some -- your license was suspended -- COUNSEL FOR THE CLAIMANT: Yes, for six months, yes. MEMBER: But then it was reinstated. COUNSEL FOR THE CLAIMANT: Yes, January -- MEMBER: January 2024, yes. COUNSEL FOR THE CLAIMANT: Yes. MEMBER: So, in the meantime, it was with Mercedes. COUNSEL FOR THE CLAIMANT: Yes
- [6] The RPD Member proceeded to question Ms. Forbes about how her BOC had been prepared. Ms. Forbes acknowledged the similarities between her BOC narrative but denied responsibility. She explained that someone else from the community had referred her to a man who assisted her in preparing her BOC for a \$200 fee. She had testified that she had met with this man in a coffee shop and he had asked her questions and then typed up her story, which she then provided to Mr. Edoh. When the RPD asked Ms. Forbes whether the man wrote the claim with his own words or if she dictated the narrative, she responded that she herself provided the information for the narrative and that he wrote it down "mostly... word for word." The RPD pressed her on this point and noted that it was hard to believe this was the case given that her narrative was so similar to others, in response to which Ms. Forbes testified that he "maybe...summarized what I've said." The RPD Member then shifted its questioning to the merits of Ms. Forbes' claim. Following questioning by both the Member and Mr. Edoh, and submissions by Mr. Edoh, the Member reserved his decision and closed the hearing.
- [7] By decision dated May 31, 2024, the RPD accepted Ms. Forbes' claim. The RPD Member found Ms. Forbes' testimony to be credible "because there were no major contradictions or omissions that went to the core of her claim, and because her testimony was spontaneous and reasonably detailed." The RPD Member also determined that the corroborative evidence was "reliable and trustworthy" and he gave it "full weight in supporting her credibility in relation to her allegations." In addressing the Minister's arguments regarding the striking similarities between Ms. Forbes' BOC and those of the other claimants, the RPD Member

applied the analysis set out in the RAD's "persuasive decision" identified as TB7-016268, concluding that the credibility concerns raised by the similarities with other BOCs had been reasonably and credibly explained by Ms. Forbes. The RPD Member then detailed his reasons for finding, on the evidence, that Ms. Forbes had a well-founded fear of persecution on grounds of "membership in a particular social group: lesbians."

- [8] On June 14, 2024, the Minister of Public Safety and Emergency Preparedness [MPSEP] appealed the decision to the RAD, arguing that contrary to the RPD's finding, Ms. Forbes' explanations for the similarities between her BOC narrative and the others "were not sufficient to establish on a balance of probabilities that she wrote the narrative and that it reflects her own story."
- [9] The RAD granted the Respondent's appeal, reversing the RPD's decision and finding that Ms. Forbes is neither a Convention refugee nor person in need of protection. This decision of October 30, 2024, is under review.
- [10] The RAD applied the same "persuasive decision" as the RPD and did not disagree with the RPD about the required analysis for dealing with claims involving strikingly similar narratives, nor the requirement for Ms. Forbes to establish that the narrative in fact reflected her own story. However, the RAD was not satisfied by Ms. Forbes' testimony provided to the RPD during her hearing. The RAD found it "troubling" that Ms. Forbes' testimony only changed after the RPD Member pointed out that if she had dictated her BOC narrative word-for-word then the similarities to other BOC narratives would be problematic, and concluded that Ms. Forbes' testimony had not been credible. The RAD also noted that Ms. Forbes had failed to explain why her testimony followed the same pattern as other claims, with some verbatim sections, and concluded variously that her BOC narrative was "manufactured for the purpose of her refugee claim" and that "it is highly likely that the nine narratives are duplicates of each other."
- [11] The RAD Member determined that contrary to the findings of the RPD Member based on the viva voce hearing, Ms. Forbes had "attempted to mislead the Immigration and Refugee Board (IRB) with a fraudulent BOC narrative," and that her risk allegations therefore could not be relied upon. Having found Ms. Forbes to lack credibility, the RAD determined that her corroborative evidence was "limited in probative value" and the letters from her mother and from her partner could not be relied on because they mirrored the evidence in the fraudulent BOC. II. Issues [12] Ms. Forbes asserts that the RAD committed multiple reviewable errors. I have reframed the issues for judicial review as follows: a) Whether the RAD breached procedural fairness by failing to convoke an oral hearing or to solicit submissions; b) Whether the RAD erred by unreasonably: reversing the RPD's positive credibility finding and on that basis granting the appeal; failing to properly account for the role of previous counsel, Robin Edoh; and/or rejecting the corroborating evidence.

- [13] Ms. Forbes also appears to hint at bias on the part of the RAD panel (“the reasons fail to support the decision leaving the applicant with the suspicion that extraneous factors may have influenced the RAD in reversing the RPD decision”) but fails to raise a cognizable legal argument on the issue so it will not be considered here.
- [14] When assessing whether there has been a breach of procedural fairness, a reviewing court decides for itself whether the decision-making process was fair, having regard to all of the circumstances: “it asks, with a sharp focus on the nature of the substantive rights involved and the consequences for an individual, whether a fair and just process was followed” (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54).
- [15] Reasonableness review, however, entails deference to the administrative decision maker. Only if a decision falls short of the requirements of transparency, intelligibility or justification will a reviewing court intervene (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [Vavilov]). To make this determination, reviewing courts apply a “reasons-first” approach to assessing the decision under review, and seek to understand the decision-maker’s reasoning process in arriving at their conclusion (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 60, citing Vavilov at para 84).
- [16] When the stakes of a decision are higher and engage the fundamental rights and interests of an individual, as is the case in refugee claims, “the reasons provided...must reflect the stakes” (Vavilov at para 133). III. Analysis A. There has been no breach of procedural fairness [17] Ms. Forbes argues that because the RAD rendered a fresh credibility determination, it was obliged to hold a hearing or to give her counsel an opportunity to make submissions on the issues of concern. She maintains this position despite acknowledging that no new evidence had been placed before the RAD, no new issues were decided by the RAD, and neither party had requested a hearing – indeed Ms. Forbes’ counsel provided a statement to the RAD explicitly stating that she was not adducing new evidence and was not requesting a hearing of arguments.
- [18] The Respondent argues, and I agree, that in these circumstances, the RAD was under no obligation to convoke an oral hearing or to solicit further submissions. This Court has repeatedly found that subsections 110(3) and (6) of the Immigration and Refugee Protection Act, SC 2001, c 27, establish that absent new evidence, the RAD can dispose of appeals without an oral hearing (*Abdi v Canada (Citizenship and Immigration)*, 2019 FC 54 at para 29). And there was no new issue raised by the RAD that would justify requesting further submissions (*Kwakwa v Canada (Citizenship and Immigration)*, 2016 FC 600 at para 25). Although, with respect, the Minister’s appeal submissions to the RAD are not a model of legal precision – they amount to little more than a demand that the RAD reverse the RPD’s decision because the Minister was unhappy with the RPD’s finding that Ms. Forbes was credible – it cannot be argued that Ms. Forbes was not put on notice of the case to meet, and I find she had a full and fair opportunity to address that case in her responding submissions.

B. The Applicant has not demonstrated that it was unreasonable for the RAD to substitute a negative credibility finding [19] The Applicant maintains that it was unreasonable for the RAD to substitute its negative credibility findings for the positive one of the RPD, and that if it disagreed with the RPD on credibility the RAD should have remitted the claim back for redetermination by the RPD. The Respondent submits that this argument has no basis in law, as the RAD is mandated to conduct a fresh assessment of the evidence on the record and may consider inconsistent evidence, implausibility, common sense, rationality and inherent logic, as well as the accumulation of inconsistencies and contradictions as a whole, to make credibility findings (*Liu v Canada (Citizenship and Immigration)*, 2022 FC 1003 at para 76; *Jayaraman v Canada (Citizenship and Immigration)*, 2022 FC 458 at para 48 and the cases cited therein; *Towolawi v Canada (Citizenship and Immigration)*, 2020 FC 245 at paras 30-31).

- [20] I agree with the Respondent that the RAD is not bound by the RPD's credibility determinations and as a general matter has the jurisdiction to make its own independent credibility findings based on the record (*Collins v Canada (Citizenship and Immigration)*, 2024 FC 665 at para 21; *Canada (Citizenship and Immigration) v Alazar*, 2021 FC 637 at para 71; *Zhang v Canada (Citizenship and Immigration)*, 2019 FC 870 at para 13). However, as the Respondent's counsel conceded during the hearing, the entirety of the jurisprudence on which the Respondent relies relates to appeals of negative credibility findings by the RPD. Counsel was unable to identify any case in which the RAD had allowed an appeal of a positive decision by reversing the RPD's positive credibility finding.
- [21] Notwithstanding the absence of direct precedent, the Applicant has not identified any principled basis upon which to distinguish the analogous precedents relied on by the Respondent, nor has the Ms. Forbes demonstrated that it was unreasonable for the RAD to have proceeded in the way it did based on the record before it. This argument must fail. C. The RAD's consideration of the role of previous counsel, Robin Edoh, was reasonable considering the submissions and evidence that were before it [22] The evidence before the RAD established that Mr. Edoh had been suspended for a time between the filing of Ms. Forbes's BOC and the hearing before the RPD. However, no evidence was adduced by the parties regarding the reason for Mr. Edoh's suspension, and no allegation of ineffective assistance was raised by Ms. Forbes' RAD counsel who continues to represent her before this Court. The Minister in his appeal offered no information about the disciplinary proceedings and laid the responsibility for the similarity between Ms. Forbes' claim and those of several other people firmly and solely at the feet of Ms. Forbes. Likewise, during the hearing before me, neither party raised any issue regarding the relevance of Mr. Edoh's suspension by his regulatory body.
- [23] During my post-hearing deliberations and review of the record and jurisprudence, I came across the decision of the CCIC's Discipline Committee in *CICC v Edoh*, 2023 CICC 14 [*CICC v Edoh*], in which Ms. Forbes' RPD counsel, Robin Edoh, was found to have engaged in professional misconduct in his representation of several refugee claimants. Of particular

note, the CCIC found that Mr. Edoh had used a template to prepare his clients' narratives, resulting in narratives that bore striking similarities to one another. The CCIC found that Mr. Edoh's use of a template in this way fell short of the requirements of the standard of competence required of regulated immigration consultants: The Respondent acknowledges that he relied on a template BOC form. The Respondent acknowledges that a BOC form is a highly individualized document and that the information contained in each of the BOCs needed to be particularized to the circumstances of each client. The Respondent acknowledges that the use of a template, without adequate alteration, amendment, and particularization, constitutes a violation of his competency obligations under the Code. In all circumstances, the BOCs written by the Respondent were deficient. (CCIC v Edoh at para 110; see also paras 142, 172, 177, 197, 213.

- [24] It appears from the decision that at least four of the referenced claimants with template BOCs successfully appealed the refusals of their claims by the RPD on grounds including the ineffective assistance provided to them by Mr. Edoh, and at least one of these claimants was subsequently granted refugee protection on redetermination by the RPD (CCIC v Edoh at paras 192-193, 215).
- [25] As the CCIC decision had not been raised by either party, I issued a direction noting that the decision raised a procedural fairness concern and invited post-hearing written submissions on the relevance of the decision to this judicial review.
- [26] Ms. Forbes asserted that since the complaint underlying the CCIC decision had been initiated by the IRB, the RAD Member was likely aware of it and influenced by it, and therefore should have invited submissions on it. She requested a directed verdict. The Respondent argued to the contrary that there was no evidence that the RAD was aware of the decision, that there was no basis for a directed verdict, and that the decision is not relevant to the judicial review because unlike the cases before the CCIC, Ms. Forbes did not allege that Mr. Edoh had drafted her BOC.
- [27] I agree with the Respondent that Ms. Forbes' arguments are unsustainable, and that the specific finding that Mr. Edoh had drafted the BOC narratives is not asserted here. My concern, however, is that the RAD decided that Ms. Forbes lacked credibility because she had "attempted to mislead the Immigration and Refugee Board (IRB)" with a "fraudulent BOC narrative," without any consideration of the role that might have been played by her counsel. The fact that other former clients of Mr. Edoh whose claims had also relied on template BOC narratives succeeded on appeal based on allegations of ineffective assistance or counsel incompetence gives this concern weight.
- [28] Unfortunately, however, while both parties appear to have been aware of the decision, neither put the CCIC decision before the RAD, and no explanation has been provided by either party for their failure to do so. Nor has either party argued that it should have been before the RAD. In the absence of any argument on the issue, and despite my serious reservations about whether the RAD's decision fairly reflects the facts regarding the role of

Mr. Edoh in the preparation of Ms. Forbes' claim, I must find that the RAD's treatment of the BOC narrative similarities is transparent and intelligible, and is justified in light of the submissions and evidence that were presented by the parties. D. The RAD's treatment of the corroborating evidence was unreasonable [29] Ms. Forbes also argues that the RAD's treatment of the evidence corroborating her sexual orientation was unreasonable. On this point I agree. Ms. Forbes had provided letters from her mother and from her partner, a letter from The 519 community centre, and photos of herself with her partner to corroborate her sexual orientation. The RPD had found this evidence to be "reliable and trustworthy" and assigned it "full weight in supporting her credibility in relation to her allegations." The RAD, however, determined that because Ms. Forbes lacked "overall credibility...her corroborative evidence is limited in probative value." The RAD Member determined that "the letter from her mother, and partner, which mirror evidence supplied in her fraudulent BOC, cannot be relied upon to overcome the credibility concerns that have been identified in this matter."

- [30] The jurisprudence establishes that, as a general matter, it is unreasonable to reject "evidence that comes from sources other than the testimony of the principal Applicant simply on the basis that the principal Applicant is not believed" (RER v Canada (Minister of Citizenship and Immigration), 2005 FC 1339 at para 10 [RER]; see also Shi v Canada (Citizenship and Immigration), 2024 FC 1432 at para 15 and the cases cited therein; Valdeblanquez Ortiz v Canada (Citizenship and Immigration), 2017 FC 410 at para 30; Chen v Canada (Citizenship and Immigration), 2013 FC 311 at paras 20-21).
- [31] The Respondent contends that the RAD's rejection of all the corroborating evidence in one sweeping finding was justified because it was all directed at a story that the RAD had found was not credible. I disagree. The RAD effectively put the cart before the horse. The RAD Member needed to explain in respect of each of these documents why it did not support Ms. Forbes' credibility or overcome the RAD's concerns stemming from the similar BOC narratives. As Justice Douglas R. Campbell explained in RER: [E]ach independent source of evidence requires independent evaluation. This is so because the independent sources might act to substantiate an Applicant's position on a given issue, even if his or her own evidence is not accepted with respect to that issue.
- [32] This is a sufficient basis upon which to grant the judicial review, and I will do so.
- [33] Neither party proposed a serious question of general importance for certification, and I agree that none arises. JUDGMENT in IMM-21631-24 THIS COURT'S JUDGMENT is that: The Application is granted. The Applicant's appeal is remitted to the Refugee Appeal Division for redetermination by a different member in accordance with these reasons. There is no question for certification. "Andrew J. Brouwer" Judge FEDERAL COURT SOLICITORS OF RECORD Docket: IMM-21631-24 STYLE OF CAUSE: JHANA-DEE RANEQUE FORBES v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: TORONTO, ontario DATE OF HEARING: JANUARY 28, 2026 JUDGMENT AND REASONS: BROUWER j. DATED: APRIL 2, 2026 APPEARANCES: OSAZEE IMAFIDON For The Applicant NICOLE RAHAMAN

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Prepared on 26 October 2026 · Esheria