

CANADA / JUDGMENT

Moyo v. Canada (Citizenship and Immigration)

2025 FC 1899

COURT

Federal Court

DECIDED

28 November 2025

Source: norma.lexum.com · Research copy typeset by Esheria. Not court-issued or certified.

Moyo v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2025-11-28

Neutral citation

2025 FC 1899

File numbers

IMM-19023-24

Decision Content

Date: 20251128

Docket: IMM-19023-24

Citation: 2025 FC 1899

Montréal, Quebec, November 28, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

NYASHA MOYO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview [1] The applicant, Nyasha Moyo, seeks judicial review of a decision dated October 3, 2024 [Decision] whereby the Refugee Appeal Division [RAD] dismissed her appeal and confirmed the Refugee Protection Division's [RPD] decision rejecting her claim for refugee protection under sections 96 and 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA].

[2] On judicial review, Ms. Moyo submits that the RAD unreasonably refused to admit the new evidence she filed on appeal and unreasonably assessed the evidentiary record before the RPD. She also submits that the RAD breached procedural fairness by applying a heightened threshold to forward-facing risk, particularly in relation to her alleged persecution from her American ex-husband.

[3] For the reasons that follow, Ms. Moyo's judicial review application will be dismissed. I find that the RAD's reasons to reject the new evidence filed by Ms. Moyo are reasonable as the documents filed on appeal were not new evidence of events that arose after the rejection of her claim and the information it contained was reasonably available prior to the RPD hearing. As such, the RAD adequately applied the legal framework to refuse to admit such evidence pursuant to subsection 110(4) of the IRPA. The RAD's findings are also otherwise reasonable.

II. Background A. The factual context [4] Ms. Moyo is a Zimbabwean citizen who fled her country in November 2021. She travelled through South Africa, France, and the United States and arrived in Canada on June 30, 2022. Upon entry, she was intercepted and apprehended by the Royal Canadian Mounted Police at Roxham Road, in Quebec.

[5] Ms. Moyo's father is from the Ndebele ethnic group and her mother is Shona, a different ethnic group in Zimbabwe. The Ndebele people are seen as supporting the Zimbabwean opposition political party called Movement for Democratic Change [MDC] — which has since changed its name to Citizens Coalition for Change — while the Shona people usually support the ruling political party, the Zimbabwe African National Union-Patriotic Front [Zanu PF]. Ms. Moyo submits that, Zimbabwe being a patriarchal society, she is seen as Ndebele, but her family lived in a Shona dominated city. Her father was a soldier with the opposition party during the colonial rule and as such, he is allegedly considered as a traitor.

[6] Ms. Moyo holds a bachelor of clinical medicine from Qiqihar Medical University in China and volunteered with the Parirenyatwa Group of Hospitals and the Resilient 7 Youth Movement.

- [7] Ms. Moyo alleges that in January 2021, she was at home in the city of Masvingo when two men came to her house to seek medical help. The men told her that they had been attacked by Zanu PF youth members. Ms. Moyo felt compelled to help the men in need. The next morning, she was approached by two other men who told her that they “knew” she was supporting opposition members. She reported the incident to the Zimbabwean police.
- [8] In May 2021, Ms. Moyo volunteered as a first aid responder at a press conference about COVID-19 given by a member of the MDC. At that press conference, she was allegedly ordered into a truck by Zanu PF members who made her sing Zanu PF songs and roll in the mud before she was released in a deserted area.
- [9] About a month later, Ms. Moyo was allegedly held at knifepoint by men in her own home for making a report to the police earlier that year. One of the men was one of the two individuals who had confronted her in January 2021 after she aided the men who had sought medical help from her.
- [10] In addition, Ms. Moyo alleges to have been a victim of conjugal violence at the hands of her ex-husband, who is an American citizen that resides in Dallas, Texas, and with whom she lived from January to June 2022. She explains that despite her ex-husband being unfaithful and verbally abusive towards her, she never reported the abuse to the police as she had no status in the United States.
- [11] Ultimately, the core allegations underpinning Ms. Moyo’s refugee claim were that (i) she was persecuted in Zimbabwe due to her imputed political opinion, (ii) she fled Zimbabwe due to persecution from Zimbabwean authorities and Zanu PF youth members, and (iii) she fears harm at the hands of her ex-husband.

B. The RPD decision [12] In a decision dated March 12, 2024, the RPD rejected Ms. Moyo’s claim for refugee protection under both sections 96 and 97 of the IRPA and found that she did not have a well-founded fear of persecution as the core elements of her claim lacked credibility.

- [13] First, the RPD determined that in light of Ms. Moyo’s testimony, neither she nor her family faced treatment in Zimbabwe that amounted to persecution on the basis of their ethnicity as Ndebele.
- [14] Then, the RPD identified credibility as the determinative issue. The RPD concluded that Ms. Moyo was not a credible witness overall and that the events she described did not happen as alleged. The RPD found that Ms. Moyo exaggerated the facts around the May 2021 press conference she attended as a first aid responder, which in turn impacted the overall credibility and reliability of her statements. Her testimony was further adversely affected by the submission of fraudulent documents to corroborate her core allegations, namely, a letter from the MDC confirming that she volunteered with them around 2021 [MDC Support Letter], a letter from the Zimbabwe Republic Police detailing the outcome of a police report [Police Report], and a certificate of appreciation from the Resilient 7 Youth Movement dated November 2022 [Certificate of Appreciation].

[15] The RPD also determined that Ms. Moyo did not establish, on a balance of probabilities, that she had been a victim of an abusive conjugal relationship with her ex-husband. Moreover, said the RPD, even if that had been the case, there was no evidence that her ex-husband would be able and interested in harming her in Zimbabwe or anywhere else. In addition, the RPD did not accept Ms. Moyo's reasons for not seeking state protection in the United States against the alleged threats and abuse by her ex-husband. Because Ms. Moyo did not file a claim for refugee protection in the United States, the RPD concluded that subjectively, Ms. Moyo did not have a fear of persecution should she return to Zimbabwe, either on the grounds of her political opinion or as a victim of conjugal violence.

C. The RAD's Decision [16] The RAD dismissed the appeal and found that the RPD was correct in finding that Ms. Moyo was neither a Convention refugee nor a person in need of protection. The RAD agreed with the RPD that Ms. Moyo had not credibly proven that she faced a well-founded fear of persecution by Zimbabwean authorities or Zanu PF youth members on the grounds of political opinion or perceived political opinion, nor by the hands of her ex-husband.

[17] First, the RAD rejected new evidence submitted by Ms. Moyo as per subsection 110(4) of the IRPA. This evidence included: (i) an affidavit from Ms. Moyo dated May 5, 2024; (ii) an affidavit from a criminal lawyer in Zimbabwe dated April 30, 2024, assessing the Police Report found to be fraudulent by the RPD; (iii) a letter from Collen Gwiyo dated April 24, 2024, regarding the MDC Support Letter found to be fraudulent by the RPD; and (iv) a letter from Dr. Anesu Samuel Masango dated April 25, 2024, regarding the Certificate of Appreciation found to be fraudulent by the RPD. The RAD determined that most of these documents attempted to bolster Ms. Moyo's claim with information that was reasonably available at the time of the hearing before the RPD and could have reasonably been expected to be put before the RPD before its decision.

[18] Turning to the substance of Ms. Moyo's refugee claim, the RAD agreed with the RPD that many inconsistencies and discrepancies in Ms. Moyo's evidence had not been reasonably explained, which was sufficient to rebut the presumption of truth set out in *Maldonado v Canada (Minister of Employment and Immigration)*, 1979 CanLII 4098 (FCA), [1980] 2 FC 302 [Maldonado]. Notably, the RAD found that the RPD correctly determined that the Police Report, the MDC Support Letter, and the Certificate of Appreciation contained enough inconsistencies and discrepancies to be qualified as not genuine documents fabricated to bolster her claim. The RAD agreed with the RPD's further findings that as a result of the exaggeration of the description of the 2021 press conference and the use of fraudulent documents, Ms. Moyo's credibility was generally impugned and the incidents forming her core allegations had not been proven.

[19] The RAD further determined that the objective country evidence did not support the specific facts of Ms. Moyo's claim. The RAD noted that the risk of being a victim of persecution based solely upon being a supporter or member of the MDC is very low in Zimbabwe and that the objective evidence does not support Ms. Moyo's assertion that she is perceived to be an MDC supporter because she is from the Ndebele ethnic group. The RAD also ruled that the

affidavit from Ms. Moyo's father did not independently establish that she was being targeted for her imputed political opinions. The RAD also concluded that Ms. Moyo had not provided sufficient proof that she otherwise had a well-founded fear of persecution based on ethnicity.

- [20] The RAD agreed with Ms. Moyo that the RPD erred in its application of the Chairperson's Guideline 4: Gender Considerations in Proceedings Before the Immigration and Refugee Board [Guideline 4]. However, said the RAD, it was able to remedy this error based on its own independent assessment. Despite finding that Ms. Moyo's recounting of her relationship with her ex-husband was credible, the RAD agreed with the RPD that it did not sufficiently establish that there was a serious forward-looking possibility of persecution.
- [21] The RAD also considered Ms. Moyo's claim through an intersectional lens — being from Zimbabwe, being a woman, and being of Ndebele ethnicity. However, this did not lead the RAD to reach a different conclusion.

D. Issues [22] Ms. Moyo's application for judicial review raises three issues, which I reformulate as follows: (i) did the RAD err in refusing to admit the new evidence on appeal?; (ii) did the RAD err in its assessment of the evidentiary record filed before the RPD?; and (iii) did the RAD unduly apply a heightened evidentiary threshold to Ms. Moyo's forward-facing risk?

E. The standard of review [23] The Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] established a presumption that reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 35 [Pepa]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]), unless the circumstances lend themselves to the application of an exception to this presumption (*Society of Composers, Authors and Music Publishers of Canada v Entertainment Software Association*, 2022 SCC 30 at para 28; *Vavilov* at paras 33–64, 69–72).

- [24] I find that the standard of reasonableness applies to all issues raised by Ms. Moyo as they go to the merits of the RAD's Decision. It is not disputed that the RAD's ruling not to admit evidence presented by Ms. Moyo 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 [Khelili]; *Khan v Canada (Citizenship and Immigration)*, 2020 FC 438 at para 21 [Khan]). 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 [Munyandamusa]; *Khan* at para 21).

- [25] Ms. Moyo argues that the third issue gives rise to the application of the correctness standard of review. With respect, I disagree. The argument as to whether the RAD applied the appropriate standard of proof also goes to the merits of the Decision and such issue is reviewable on the reasonableness standard (*Jain v Canada (Citizenship and Immigration)*, 2025 FC 1187 at paras 14-15; *Eyeoyibo v Canada (Citizenship and Immigration)*, 2024 FC 1008 at paras 7-8; *Munyandamusa* at paras 25–28).
- [26] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision 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” (*Pepa* at para 46; *Mason* at para 64; *Vavilov* at para 85). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness — justification, transparency and intelligibility” (*Vavilov* at para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74).
- [27] As part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Pepa* at paras 46–47; *Mason* at paras 58, 60; *Vavilov* at para 84). Flaws must be more than superficial for the reviewing court to overturn an administrative decision. Before a decision can be set aside on the basis that it is unreasonable, the reviewing court must be satisfied that “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).
- [28] An assessment of the reasonableness of a decision must be robust, but it must remain sensitive to and respectful of the administrative decision maker (*Mason* at para 8; *Vavilov* at paras 12–13). Reasonableness review is an approach anchored in the principle of judicial restraint and in a respect for the distinct role and specialized knowledge of administrative decision makers (*Mason* at para 57; *Vavilov* at paras 13, 75, 93). In other words, the approach to be followed by the reviewing court is one of deference, especially with respect to findings of facts and the weighing of evidence. Absent exceptional circumstances, a reviewing court will not interfere with the factual findings of an administrative decision maker (*Mason* at para 73; *Vavilov* at paras 125–126, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55). The onus is on the party challenging the decision to prove that it is unreasonable.

III. Analysis A. The RAD did not err in refusing to admit the new evidence on appeal (1)

Applicable legal principles [29] It is undisputed that to be admitted on appeal before the RAD, any new evidence presented by a claimant has to meet the requirements of subsection 110(4) of the IRPA and of the Federal Court of Appeal’s decisions in *Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385 [Raza] and *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96 [Singh] (*Khelili* at para 16; *Khan* at paras 28–31; *Dugarte de Lopez v Canada (Citizenship and*

Immigration), 2020 FC 707 at paras 16–21 [Dugarte de Lopez]). The scope for the introduction of new evidence before the RAD is narrow and as a general rule, the RAD must proceed on the basis of the record before the RPD (Singh at para 51; subsection 110(3) of the IRPA).

- [30] Subsection 110(4) of the IRPA establishes that a party may only present evidence (i) that arose after the rejection of the party's claim; (ii) that was not reasonably available; or (iii) that the party could not reasonably have been expected in the circumstances to have presented at the time of rejection (Singh at para 34). Only new evidence that falls into any of these three categories is admissible (Singh at para 35).
- [31] Raza sheds light on the requirements of subsection 110(4) by setting out five criteria to help in determining whether new evidence is admissible: credibility, relevance, newness, materiality, and express statutory conditions (Raza at para 13). These five criteria do not override but add to the three explicit conditions mentioned in subsection 110(4) of the IRPA to analyze whether new evidence is admissible (Dugarte de Lopez at para 19). Singh, in turn, slightly alters the way in which the criteria are assessed under subsection 110(4). According to Singh, the newness criterion is redundant (Singh at para 46), while the materiality criterion will generally be met if the evidence may have an impact on the RAD's overall assessment of the RPD's decision. In other words, materiality does not require that the evidence be determinative in and of itself (Singh at para 47).
- [32] I also accept that an appeal to the RAD is not simply another opportunity for a refugee hearing nor is it intended to provide an applicant with the opportunity to complete a deficient record submitted before the RPD or to answer the weaknesses identified by the RPD in its decision (Singh at paras 35, 51, 54; *Oppong v Canada (Citizenship and Immigration)*, 2025 FC 108 at para 10 [Oppong]; *Khan* at para 28; *Dugarte de Lopez* at para 16). It is trite law that refugee claimants bear the burden of proving their claim. As noted by Justice LeBlanc (as he was then), claimants "must put their 'best foot forward' in applications before the RPD and present all the evidence that is available at the time" (*Marin v Canada (Citizenship and Immigration)*, 2016 FC 847 at para 27). Indeed, the time for applicants to present all evidence supporting their claim is at their hearing before the RPD (Oppong at para 9). In addition, if evidence should have been submitted prior to a decision by the RPD but was not, it is reasonable to expect a claimant to seek an adjournment of the hearing or to file post-hearing evidence (*Olori v Canada (Citizenship and Immigration)*, 2021 FC 1308 at para 27 [Olori]).
- (2) Analysis [33] On judicial review, the role of the Court is not to revisit whether the new evidence should have been accepted but rather whether the RAD's admissibility determination is reasonable (*Khan* at paras 28, 32; *Dugarte de Lopez* at para 16; *Akanniolu v Canada (Citizenship and Immigration)*, 2019 FC 311 at para 41). Here, even though I acknowledge that the RAD could have provided clearer and more expansive reasons in the Decision, I am not persuaded that there are shortcomings in the RAD's reasons to reject the proposed evidence file by Ms. Moyo that would be sufficient to warrant the Court's intervention.

- (a) Ms. Moyo's affidavit [34] In her affidavit, Ms. Moyo explains that she did not provide the three other documents to the RPD because she did not anticipate that the RPD would find the Police Report, the MDC Support Letter, and the Certificate of Appreciation not genuine. Ms. Moyo was under the impression that the RPD was overall satisfied with her answers at the hearing. She also claims that she was unaware that she could make post-hearing submissions or file post-hearing evidence as her previous counsel never suggested it and the RPD never asked for them.
- [35] Ms. Moyo argues that the RAD erred in considering her affidavit as submissions instead of sworn testimony, in which case it would have benefited from the presumption of truthfulness set out in Maldonado. The Minister of Citizenship and Immigration [Minister] responds that irrespective of whether the RAD considered her affidavit properly as a sworn statement, there is nothing to suggest that the RAD took issue with the truth of her statements. The RAD was just unpersuaded by them, says the Minister.
- [36] I agree with the Minister that there appears to be no indication that the truthfulness of Ms. Moyo's affidavit was called into question by the RAD. In the present circumstances, whether the RAD treated the affidavit as a sworn statement or as legal submissions makes no substantive difference. Even if the RAD was to accept Ms. Moyo's affidavit as true, per the presumption of Maldonado, the "presumption of truth or reliability cannot be equated with a presumption of sufficiency" (*Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 42).
- [37] Despite her submissions to the contrary, it is clear that the evidence and explanations put forward by Ms. Moyo in her affidavit were considered by the RAD (for example, at paras 12, 16 and 19 of the Decision). The RAD was simply not persuaded that Ms. Moyo's sworn statements ³/₄ namely, that she did not anticipate that the RPD would find the Police Report, the MDC Support Letter, and the Certificate of Appreciation not genuine, that she did not foresee that these new documents would have been useful in support of her refugee claim, and that she was unaware of the possibility to file post-hearing evidence ³/₄ established that the three documents were not reasonably available or that Ms. Moyo could not have been expected to present them at the time of the RPD's rejection, within the meaning of subsection 110(4) of the IRPA and the test laid out in the jurisprudence.
- [38] Ms. Moyo relies on *Dirieh v Canada (Citizenship and Immigration)*, 2018 FC 939 [Dirieh], where the Court held that the decision maker should demonstrate cognizance of the distinction between a sworn and unsworn statement. With what I agree. However, this case does not assist Ms. Moyo as, in *Dirieh*, the Court found the RAD's rejection of the new evidence filed on appeal unreasonable because Mr. Dirieh had explained in his affidavit that he was unable to get a hold of the party's local Secretary General before the RPD decision. The reasons provided by Ms. Moyo to explain why she did not provide her new evidence earlier are very different, and do not refer to any inability to obtain the impugned documents at the time of the RPD hearing.

- (b) The three other documents [39] I now turn to the reasonableness of the RAD's findings regarding the admissibility of the three other documents that Ms. Moyo attempted to file on appeal, namely, (i) an affidavit from a criminal lawyer in Zimbabwe dated April 30, 2024, assessing the Police Report found to be fraudulent by the RPD, (ii) a letter from Mr. Gwiyo dated April 24, 2024, regarding the MDC Support Letter found to be fraudulent by the RPD; and (iii) a letter from Dr. Masango dated April 25, 2024, regarding the Certificate of Appreciation also found to be fraudulent by the RPD.
- [40] In the case at hand, the RAD found that those documents were reasonably available at the time of the RPD hearing and that Ms. Moyo could have reasonably been expected to provide those to the RPD. This refers to the second and third prongs of the test set out in subsection 110(4) of the IRPA.
- [41] It is true that in the Decision, the RAD did not specifically engage in the assessment of whether the evidence arose after the rejection of the claim, which is the first scenario contemplated by subsection 110(4) of the IRPA. Here, all three documents dated from April 2024 and thus clearly post-dated the RPD decision. I pause to underline that the test set out in subsection 110(4) of the IRPA is disjunctive, not conjunctive. This means that new evidence may be accepted by the RAD either if it arose after the rejection of the claim, or if it was not reasonably available, or if the person could not have been expected to have presented it at the time of the rejection. It therefore suffices that an appellant's new evidence meets one of these elements for the RAD to consider accepting it. Conversely, in order for the RAD to conclude that a new piece of evidence does not meet the statutory requirements of subsection 110(4), it must consider whether the evidence fails to meet all the conditions laid out in the provision (Khan at para 29; Olowolaiyemo v Canada (Citizenship and Immigration), 2015 FC 895 at para 19).
- [42] However, I accept the Minister's contention that evidence is not "new" merely because of its date of creation and that the focus must rather be on the time of the event or circumstance sought to be proved by the "new" evidence (Raza at para 16).
- [43] Here, while the RAD did not specifically discuss why it declined to admit Ms. Moyo's evidence under the first prong of the criteria set out in subsection 110(4) of the IRPA, I am satisfied that, when its reasons are read as a whole, the RAD effectively considered this first scenario — if not explicitly, then implicitly — given the specific references to the timing of the events addressed by the three documents (Jadallah v Canada (Citizenship and Immigration), 2016 FC 1240 at para 33 [Jadallah]). For example, the RAD notes that the affidavit from the criminal lawyer analyzes the Police Report "that was made before the RPD decision" (paragraph 10 of the Decision). As explained by Justice Roussel (as she then was) in Jadallah, "[i]n order for the RAD to conclude that it would have been reasonable for the Applicant to present the new evidence at the RPD hearing, it had to find that the evidence was available prior to the RPD's decision" (Jadallah at para 33) and thus, did not arise after the rejection of the claim.

- [44] In my view, it is therefore implicit that the RAD found $\frac{3}{4}$ and reasonably so $\frac{3}{4}$ that the evidence was meant to prove an event that occurred or circumstances that arose prior to the RPD hearing. The RAD then adequately turned to the assessment of whether Ms. Moyo established either that the evidence was not reasonably available to her for presentation to the RPD, or that she could not reasonably have been expected in the circumstances to have presented the evidence at the RPD hearing (Raza at para 13(5)(a)).
- [45] Whether it is for the affidavit of the criminal lawyer (item (i)), the letter from Mr. Gwiyo (item (ii)), or the letter from Dr. Masango (item (iii)), the RAD did not accept Ms. Moyo's sworn statements that she did not anticipate the RPD to find the Police Report, the MDC Support Letter, or the Certificate of Appreciation not genuine. The RAD also noted that the RPD had raised concerns about the authenticity of all three documents during the hearing and that Ms. Moyo $\frac{3}{4}$ who was represented by counsel $\frac{3}{4}$ could have filed post-hearing submissions or evidence on those issues. In sum, the RAD found that Ms. Moyo could have been expected to bring information about the veracity of the Police Report, the MDC Support Letter, and the Certificate of Appreciation to the RPD before it rendered its final decision. The RAD also found that the criminal lawyer's affidavit and Mr. Gwiyo's letter were filed on appeal to tune up Ms. Moyo's case and bolster her claim.
- [46] Ms. Moyo argues on judicial review that she swore in her affidavit that she did not know that she could submit post-hearing evidence. Moreover, she argues that the RAD did not explain how her sworn statements were insufficient, which contradicts the culture of justification emphasized in *Vavilov*. Ms. Moyo also argues that the RAD erred in finding that the affidavit of the criminal lawyer was an attempt to bolster her claim and that Dr. Masango's letter was inconsistent with her testimony.
- [47] I am not persuaded by Ms. Moyo's submissions. Ms. Moyo admits in her memorandum that the affidavit of the criminal lawyer addressed "factors that could have resulted in the errors in the police report identified by the RPD." However, this Court has ruled that "responding to an inadequacy identified by the RPD in a party's case cannot be a legitimate foundation for the party to claim that had she known about the deficiency, she could have presented better evidence that was always in existence from persons that could have been called" (*Abdullahi v Canada (Citizenship and Immigration)*, 2016 FC 260 at para 15, cited in *Alio v Canada (Citizenship and Immigration)*, 2025 FC 340 at para 14).
- [48] The same reasoning applies to Mr. Gwiyo and Dr. Masango's letters, which were both submitted in response to deficiencies identified by the RPD and were meant to address the RPD's concerns. It is well recognized that refugee claimants cannot wait until after the RPD has rendered a negative decision to provide such evidence (*Olori* at para 27). Here, the three new documents that Ms. Moyo sought to introduce as new evidence were all related to documents already filed before the RPD: the affidavit from the criminal lawyer related to the Police Report, Mr. Gwiyo's letter discussed the MDC Support Letter, and Dr. Masango's letter referred to the Certificate of Appreciation. I also note that all the new documents submitted by Ms. Moyo appeared and/or were produced on short notice, only about a month after the

RPD's decision.

- [49] The RAD could reasonably consider whether the new evidence should have been submitted earlier. Here, the RAD found, with respect to the Police Report, that there were “so many inconsistencies and discrepancies on the face of the Report” that Ms. Moyo “should have considered whether there would be concerns” over its authenticity before she submitted it to the RPD. The record also shows that during the hearing, the RPD had itself raised concerns with respect to the authenticity of the Police Report, the MDC Support Letter, and the Certificate of Appreciation. As such, it was reasonable for the RAD to expect Ms. Moyo to file post-hearing evidence before the RPD rendered its decision.
- [50] In sum, all of the contemplated new evidence sought to address issues that Ms. Moyo knew were of concern to the RPD. Yet, she did not attempt to provide this evidence to address those concerns before the RPD rendered its decision (*Edu-Adesokan v Canada (Citizenship and Immigration)*, 2024 FC 1361 at para 42). While it may be true that Ms. Moyo was unaware of that possibility, I note that she was represented by counsel at her RPD hearing and that no allegation of incompetent counsel is being made before this Court.
- [51] The RAD is justified in refusing to admit new evidence on appeal where an applicant fails to provide an adequate explanation of why they could not have presented their evidence to the RPD prior to its decision. Here, it was open to the RAD to be dissatisfied with the reasons provided by Ms. Moyo for not producing the evidence earlier. Her assertions that she did not anticipate that the RPD would find the Police Report, the MDC Support Letter, and the Certificate of Appreciation not genuine, that she did not foresee that these new documents would have been useful in support of her refugee claim, and that she was unaware of the possibility to file post-hearing evidence were not sufficient to convince the RAD. The RAD reasonably determined that the new evidence was reasonably available and could reasonably have been presented to the RPD in the circumstances, thus failing to meet the requirements of subsection 110(4) of the IRPA.
- (3) Conclusion on the new evidence [52] Despite very able submissions made by counsel for Ms. Moyo in arguing her client's position, I find that it was reasonable for the RAD to conclude that the affidavit from the criminal lawyer, Mr. Gwiyo's letter, and Dr. Masango's letter were not new evidence that arose after the rejection of the claim and that the information they contained was reasonably available prior to the RPD hearing. I recognize that the RAD could have addressed the matter in more detail and provided more elaborate reasons given that the three documents clearly post-dated the RPD decision, but it cannot be said that the RAD ignored or overlooked whether the new evidence complied with the first part of subsection 110(4) of the IRPA.

[53] In other words, I am not persuaded that there are “sufficiently serious shortcomings” in the RAD’s reasons to reject the proposed new evidence (Vavilov at para 100). Flaws must be more than superficial for a reviewing court to overturn an administrative decision. Here, this is not a situation where the RAD’s reasons on the new evidence cause me to “lose confidence in the outcome reached” (Vavilov at para 106) or render the Decision unintelligible.

B. The RAD’s other findings are reasonable [54] As I mentioned at the beginning of the hearing, the heart of Ms. Moyo’s case was the reasonableness of the RAD’s inadmissibility determination of the new evidence she attempted to file on appeal, and this was the determinative issue. That being said, for the reasons to follow, I am also otherwise unconvinced by Ms. Moyo’s other arguments regarding the reasonableness of the RAD’s Decision.

[55] First, Ms. Moyo argues that the RAD failed to meaningfully engage with evidence supporting that the RPD breached procedural fairness. She argues that she was not given proper notice by the RPD that it had persisting concerns about document authenticity and that the RAD disregarded that evidence. But, again, it is up to the refugee claimant to put their best foot forward. Credibility is always a key issue in refugee claims (*Talukder v Canada (Citizenship and Immigration)*, 2007 FC 668 at para 20). I accept the Minister’s submissions that Ms. Moyo was “not entitled to a running list of deficiencies in her evidence” at the end of her hearing before the RPD nor, as this Court has held, “to further explicit notice that the documents were a concern” (*Behary v Canada (Citizenship and Immigration)*, 2015 FC 794 at para 19).

[56] Second, Ms. Moyo submits that the RAD assessed the RPD’s credibility findings on a too high deferential standard. I do not agree. There is no indication that the RAD erroneously deferred to the RPD’s credibility findings. The reasons reveal that the RAD conducted its own analysis of the record but agreed with the RPD that there were inconsistencies and discrepancies in Ms. Moyo’s evidence, which had not been reasonably explained. I note that the RAD found that the RPD failed to properly consider Guideline 4 and as such, it did not simply endorse the RPD’s findings.

[57] Third, Ms. Moyo claims that the RAD erred in its assessment of her father’s affidavit. Again, there is no indication that the RAD did not believe her father’s allegations or found them not credible. The RAD simply determined that they were insufficient to establish Ms. Moyo’s forward-facing risk in Zimbabwe given the lack of details about the identity of the alleged agent of harm or about their reasons for searching for Ms. Moyo. This was a finding open to the RAD in light of the evidence.

[58] Fourth, Ms. Moyo maintains that the RAD erred in generally impugning her credibility based on the Police Report, which was found to be fraudulent. However, lack of credibility concerning central elements of a refugee protection claim can extend and trickle down to other elements of the claim and be generalized to all of the documentary evidence presented to corroborate a version of the facts (*Gong v Canada (Citizenship and Immigration)*, 2020 FC 163 at para 40; *Lawani v Canada (Citizenship and Immigration)*, 2018

FC 924 at para 24). Here, the Police Report was central to Ms. Moyo's claim, which is largely based on her perceived political opinion and/or support of the MDC. Assessing credibility lies at the heart of the RAD's and RPD's specific expertise and knowledge under the IRPA and their findings should be afforded deference from this Court sitting on judicial review.

[59] Fifth, Ms. Moyo contends that the RAD erred in “overzealously and microscopically” analyzing her testimony. However, on judicial review, absent exceptional circumstances, this Court must refrain from reweighing and reassessing the evidence considered by the decision maker (Vavilov at para 125). Here, the RAD conducted a thorough analysis of Ms. Moyo's testimony but found that she “exaggerated the description of the press conference” and that inconsistencies remained regarding her membership or perceived membership with the MDC. As I discussed in *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 [Adeleye] and *Paulo v Canada (Citizenship and Immigration)*, 2020 FC 990 [Paulo], an administrative decision maker's approach cannot be called “microscopic” (and result in a reviewing court's intervention) unless it clings to issues that are irrelevant or peripheral to the claim of the refugee claimant (Adeleye at para 30; Paulo at paras 59–61). Moreover, an analysis does not become “microscopic” or overzealous because it happens to be exhaustive, focused, and comprehensive. Quite the contrary, such an approach reflects the rigour that applicants (and the courts) have the right to expect from an administrative decision maker's analysis. Here, the RAD's review of Ms. Moyo's testimony related to matters at the very core of her refugee claim. There are no exceptional circumstances that would justify the Court to interfere with these factual findings (Vavilov at para 125).

[60] Finally, Ms. Moyo argues that the RAD unduly applied an elevated threshold to forward-looking risk with respect to her domestic abuse claim. However, after reviewing this part of the RAD's Decision, I cannot find that the RAD imposed an “erroneous heightened evidentiary threshold requiring proof of ‘extreme’ psychological harm or actual physical harm to demonstrate risk arising from her former spouse” as submitted by Ms. Moyo. It is true that the RAD employed those words. However, they must be viewed in context. Overall, the RAD found Ms. Moyo's recounting of her relationship with her ex-husband credible but insufficient to establish a serious forward-looking risk of persecution from her ex-husband. It is trite law that a claimant must demonstrate a well-founded fear of persecution in the future (*Fernandopulle v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 91 at para 21). In the present case, there was no indication that Ms. Moyo's ex-husband has tried to contact or harm her since she left him in June 2022. The RAD also noted that her ex-husband was an American citizen living there and as such, there was no indication that he would pose a risk to Ms. Moyo upon her return to Zimbabwe. I find that the RAD properly applied the test and did not apply a heightened evidentiary threshold in assessing Ms. Moyo's claim.

IV. Conclusion [61] For all of these reasons, Ms. Moyo's application for judicial review is dismissed. The RAD's findings, including its refusal to admit the new evidence on appeal, fall within the range of possible, acceptable outcomes in light of the record.

[62] There are no questions of general importance to be certified.

[63] I wish to express my thanks to both counsel for their very able submissions, both in writing and at the hearing.

JUDGMENT in IMM-19023-24

THIS COURT’S JUDGMENT is that:

This application for judicial review is dismissed, without costs.

There is no question of general importance to be certified.

“Denis Gascon”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-19023-24

STYLE OF CAUSE:

NYASHA MOYO v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING:

TORONTO, ONTARIO

DATE OF HEARING:

OCTOBER 23, 2025

JUDGMENT AND REASONS:

GASCON J.

DATED:

November 28, 2025

APPEARANCES:

Olivia Rose Moore

For The Applicant

Hannah Shaikh

For The Respondent

SOLICITORS OF RECORD:

AKM Law Professional Corporation

Barristers and Solicitors

Toronto, Ontario

For The Applicant

Attorney General of Canada

Toronto, Ontario

For The Respondent

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://norma.lexum.com/fc-cf/decisions/en/item/529407/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/moyo-v-canada-citizenship-and-immigration-2025>

Prepared on 28 October 2026 · Esheria