

CANADA / JUDGMENT

Nabo v. Canada (Citizenship and Immigration)

2026 FC 356

COURT

Federal Court

DECIDED

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Nabo v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-03-16 Neutral citation 2026 FC 356 File numbers IMM-6204-25 Decision Content Date: 20260316 Docket: IMM-6204-25 Citation: 2026 FC 356 Ottawa, Ontario, March 16, 2026 PRESENT: The Honourable Mr. Justice Ahmed BETWEEN: KWAKU NABO Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] The Applicant, Kwaku Nabo, seeks judicial review of a decision made by the Refugee Appeal Division (“RAD”), dated February 13, 2025. The RAD upheld the decision of the Refugee Protection Division (“RPD”), dated October 3, 2024, finding that the Applicant is neither a Convention refugee nor a person in need of protection pursuant to sections 96 and 97(1) of the Immigration and Refugee Protection Act, SC 2001, c 27 (“IRPA”). The Applicant’s failure to establish his identity was the determinative issue before the RPD and the RAD.

- [2] The Applicant submits that the RAD based its decision on peripheral inconsistencies to disregard the documents that would otherwise support his identity. The Applicant further maintains that the RAD’s process was not procedurally fair because it refused to admit new evidence or to hold an oral hearing.
- [3] I disagree. The RAD’s decision was both reasonable and conducted in a procedurally fair manner. This application for judicial review is dismissed. II. Background A. The Applicant [4] The Applicant describes himself as a 45-year-old citizen of Ghana.
- [5] The Applicant states that he faces persecution as a bisexual man in Ghana, where it is illegal to have same-sex relations.
- [6] The Applicant has two children with his former girlfriend, both of whom remain in Ghana.
- [7] The Applicant alleges that, at some point after January 2020, his former girlfriend discovered him in bed with another man. The Applicant stated that his girlfriend’s scream drew the attention of their neighbours who proceeded to physically assault the Applicant. The day after this incident, the Applicant states that he heard about a threat to his life and fled to Accra.

- [8] The Applicant states that he remained some time in Ghana in order to obtain a visa to leave the country. In the Applicant's Basis of Claim narrative, he states that, on July 27, 2022, he fled from Ghana to Brazil. On September 23, 2022, the Applicant arrived in Canada.
- [9] In a decision dated October 3, 2024, the RPD refused the Applicant's refugee claim because it found that he had not provided sufficient documentation to establish his identity. The Applicant appealed this decision to the RAD. B. Decision Under Review [10] On February 13, 2025, the RAD affirmed the RPD's decision that the Applicant was not a Convention refugee nor a person in need of protection because he had failed to establish his identity.
- [11] The RAD determined that both the Applicant's birth certificate and passport are fraudulent. In particular, the RAD noted that the Applicant's birth certificate does not conform to the information on birth certificates in the objective country documentation. These discrepancies compounded with the Applicant's inconsistent testimony which did not establish the number of birth certificates he has had in his life and the identity of the informant on his birth certificate. The RAD also determined that the Applicant's passport is fraudulent because the Applicant could not consistently attest to the dates on which he travelled to Brazil or received the passport supposedly issued in Brazil.
- [12] In arriving at this determination, the RAD refused to admit new evidence or hold a hearing. The Applicant had provided the RAD with a copy of his passport and submitted that it was new evidence to be considered. But the RAD found that this was the same passport that was previously before the RPD and thus did not constitute new evidence. Because the RAD determined that there was no new evidence, it did not hold an oral hearing. III. Issues and Standards of Review [13] The two issues in dispute in this application for judicial review are whether the RAD's decision is reasonable and was rendered in a manner that breached procedural fairness.
- [14] The parties submit that the applicable standard of review for the merits is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("Vavilov")). I agree.
- [15] The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 37-56 ("Canadian Pacific Railway Company"); *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). I find that this conclusion accords with the Supreme Court of Canada's decision in *Vavilov* (at paras 16-17).
- [16] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible, and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant

administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (Vavilov at paras 88-90, 94, 133-135).

- [17] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (Vavilov at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (Vavilov at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (Vavilov at para 100).
- [18] Correctness, by contrast, is a non-deferential standard of review. The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 (at paras 21-28; see also *Canadian Pacific Railway Company* at para 54). IV. Analysis A. The RAD’s Decision was Procedurally Fair [19] Relying on section 110(4) of the IRPA, the Applicant submits that his passport should have been admitted as new evidence before the RAD because it was located outside of Canada and not within the Applicant’s possession when he was before the RPD. Accordingly, the Applicant maintains that the RAD had new evidence that met the criteria provided in section 110(6) of the IRPA to hold an oral hearing.
- [20] I do not find that the Applicant’s submissions are supported by the record. Rather, I agree with the Respondent that the RAD reasonably determined there was no new evidence. The Applicant’s passport was not new evidence since it was before the RPD (*Singh v Canada (Citizenship and Immigration)*, 2016 FCA 96 (“Singh”) at para 69). Indeed, the RPD’s record contains a copy of the passport and photos of the passport, which it considered in its reasons.
- [21] Consequently, as the RAD noted, it was not within its discretion to hold an oral hearing (*Eije v Canada (Citizenship and Immigration)*, 2021 FC 500 at para 21). This determination reflects the jurisprudence interpreting section 110(6) of the IRPA, which affirms that admitting new evidence on appeal is a pre-condition for an oral hearing (*Singh* at para 51; *Mehmood v Canada (Citizenship and Immigration)*, 2025 FC 535 at para 20). B. The RAD’s Decision is Reasonable [22] The Applicant asserts that the RAD erred in dismissing his claim based on a lack of documents establishing his identity. The Applicant relies on *Owusu-Ansah v Canada (Minister of Employment & Immigration)*, 1989 CanLII 10377 (FCA) (“Owusu-Ausah”), and the legislative framing of section 106 of the IRPA, to submit that the alleged contradictions related to the Applicant’s identity issues must be rationally connected to his credibility. Regarding the alleged inconsistencies with the Applicant’s birth certificate and passport, the Applicant maintains that the RAD identified microscopic inconsistencies that could be explained.

- [23] The Respondent submits that the RAD reasonably determined that the Applicant failed to establish his identity because he gave inconsistent testimony relating to the documents he had on the record. The Respondent maintains that the Applicant's explanations for these inconsistencies do not undermine or contradict the RAD's conclusions.
- [24] In my view, the RAD reasonably concluded that it could not determine the Applicant's identity based on the inconsistent evidence regarding the documents on its record.
- [25] I first note that identity is a threshold issue. This Court has previously called the issue of identity the cornerstone of the Canadian immigration regime as it is the basis for the RPD and RAD to assess the claimant's very need for protection (*Canada (Public Safety and Emergency Preparedness) v Gebrewold*, 2018 FC 374 at para 21). Therefore, there is no issue with the RPD and RAD's analysis of the Applicant's identity separately from his refugee claim.
- [26] The RAD completed a thorough analysis of the documents purporting to support the Applicant's identity. The RAD reasonably found the birth certificate is fraudulent because the Applicant gave contradictory testimony about the number of certificates he has obtained and whether his father or his brother would have been the informant for his birth certificate. The RPD compared this inconsistent testimony to the country condition documentation and found that the Applicant's evidence was inconsistent on relevant factors for determining the authenticity of his birth certificate. These issues are not peripheral but rather relate directly to the reliability of the birth certificate and whether it could establish the Applicant's identity (*Terganus v Canada (Citizenship and Immigration)*, 2020 FC 903 at paras 25-28; *Woldemichael v Canada (Citizenship and Immigration)*, 2021 FC 1059 ("Woldemichael") at paras 28-30).
- [27] The Applicant's defence of his birth certificate does not contradict the RAD's conclusion. The Applicant speculates that a person can have multiple birth certificates for many reasons and that this is no reason to question the birth certificate's authenticity. The Applicant also hypothesizes that, if the Applicant's brother had merely obtained a certified copy of the birth certificate, then it would naturally still have the Applicant's father listed as the informant. Moreover, the Applicant posits that the national documentation package implies that there are instances where Ghanaian authorities modify the Registry of Births and thus this may be an instance where there was a modification of the specified dates. While these theories may be true, the Applicant presented these same arguments before the RAD, and the RAD determined that the evidence did not support his speculations. In the absence of any actual, directly contradictory evidence, this Court cannot reweigh the evidence before the RAD to come to a more favourable conclusion for the Applicant (*Vavilov* at para 125).
- [28] I also find that the RAD's conclusion that the Applicant's passport is fraudulent was supported by the facts on the record. The RAD found that the passport's issuance date did not align with the Applicant's testimony about his arrival in Brazil. In particular, the passport was issued on April 23, 2021, in Brazil, but the Applicant could not provide a

consistent testimony as to whether he arrived in Brazil before or after this passport was issued. The RAD reasonably concluded that, without evidence supporting that the Applicant was in Brazil at the time when the passport was issued, it could not rely on the passport to support the Applicant's identity.

- [29] Additionally, I agree with the Respondent that the RAD reasonably rejected the Applicant's explanation that his inconsistent testimony was due to his lack of education. The RAD noted that the Applicant worked as a car mechanic in Ghana, remembered important dates in his narrative for his claim, and that he successfully travelled to Canada through South America, Mexico, and the United States. Based on these facts, the RAD reasonably found that the Applicant did not lack the capacity to remember the key dates to support his documentation.
- [30] These unexplained inconsistencies in the Applicant's evidence distinguish this case from Owusu-Ausah. In that case, the inconsistencies in the applicant's testimony were not identified at the time of the hearing and explanations for these inconsistencies were readily identifiable on the record (Owusu-Ausah at pp 107, 109-110). However, the inconsistencies in this case were put to the Applicant during the RPD hearing and he was given the opportunity to explain them. Based on the record before them, both the RPD and the RAD were not satisfied that his explanations could account for the significance of these inconsistencies.
- [31] Accordingly, the RAD reasonably determined that neither the Applicant's birth certificate nor his passport could support his identity for his refugee claim. Without this information, the Applicant failed to meet his burden to prove his identity with documents or to provide a reasonable explanation for his inability to do so (Woldemichael at para 28). V. Conclusion
- [32] The RAD reasonably determined the Applicant's passport and birth certificate are fraudulent. For these reasons, I dismiss this application for judicial review.
- [33] The parties have not raised any question for certification, and I agree that none arises. JUDGMENT in IMM-6204-25 THIS COURT'S JUDGMENT is that: This application for judicial review is dismissed. There is no question for certification. "Shirzad A." Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-6204-25 STYLE OF CAUSE: KWAKU NABO v THE MINISTER OF CITIZENSHIP AND IMMIGRATION judgment IN WRITING DATED: March 16, 2026 WRITTEN SUBMISSIONS BY: Ariel Hollander For The Applicant Nicholas Dodokin For The Respondent SOLICITORS OF RECORD: LEWIS & ASSOCIATES LLP Barristers and Solicitors Toronto, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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