

CANADA / JUDGMENT

Nalyanya v. Canada (Citizenship and Immigration)

2026 FC 595

COURT

Federal Court

DECIDED

5 May 2026

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

Nalyanya v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2026-05-05

Neutral citation

2026 FC 595

File numbers

IMM-21467-24

Decision Content

Date: 20260505

Docket: IMM-21467-24

Citation: 2026 FC 595

Ottawa, Ontario, May 5, 2026

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

NATHANIEL NALYANYA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

- [1] The Applicant seeks judicial review of an October 29, 2024, appeal decision [the Decision] made by a panel of Immigration and Refugee Board of Canada's Refugee Appeal Division [the RAD]. The RAD confirmed the Refugee Protection Division [RPD] decision which concluded that the Applicant was neither a Convention refugee nor a person in need of protection within the meaning of sections 96 and 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA].
- [2] After reviewing the record, considering the parties' arguments, and carefully reviewing the Decision and the RPD decision before it, the Court cannot find that the RAD's Decision is unreasonable in the sense that it lacks justification or is unsupported by the evidence in the record. The Decision is transparent, intelligible and is justified by the facts and the law.
- [3] The Applicant has not established that the Decision is unreasonable. The Applicant's application is therefore dismissed for the reasons that follow.

I. Preliminary Issue [4] The Applicant filed additional affidavit material for this proceeding on September 22, 2025, within the deadlines set out in the Order granting the Applicant leave. The additional materials had been served upon the Respondent on September 22, 2025, and were sent to the Court for filing without objection or opposition shortly after being served.

- [5] The Applicant also filed an unopposed motion for an extension of time to file additional written submissions on or about October 24, 2025, along with additional written submissions.
- [6] The parties referred to these materials during the hearing of this application even though the Court did not have copies of them at the time of hearing due to registry backlogs in document processing. The Court informed the parties during the hearing that the Court would review the documents upon receipt and make a determination as to whether the documents would be accepted for filing after the hearing. The Court directed that the documents be filed in the Court file after the hearing.
- [7] The Court observes that the Applicant's affidavit of September 22, 2025, contains and adopts evidence that was not before the RPD or the RAD. The new evidence is tendered to enhance and supplement the Applicant's evidence as it was before the RPD. The Applicant has not brought a motion for the admission of new evidence on judicial review.
- [8] Considering that evidence that was not before an administrative decision maker and that goes to the merits of a matter is not admissible in an application for judicial review save and except for in limited exceptions that do not apply here, the Court will accept the Applicant's September 22, 2025, affidavit as filed evidence before the Court but will disregard any

evidence contained within it that was not before the RPD (*Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22, at paras 19 and 20). Accordingly, the Court disregards paragraphs 8 to 17 and Exhibits A, B, and C, of the Applicant's September 22, 2025, affidavit as they contain evidence that is inadmissible before this Court in this proceeding.

- [9] The Applicant's unopposed motion for an extension of time to file additional written submissions is granted and the Applicant's additional written submissions dated October 24, 2025, are accepted for filing.
- [10] The Applicant's supplementary affidavit sworn on September 22, 2025, as well as his additional written submissions dated October 24, 2025, were considered by the Court in arriving at this judgment.

II. Background [11] The Applicant is a citizen of Kenya and identifies as a gay man. He is married and has children in Kenya. He left Kenya in May 2023 and arrived in Canada to attend a conference in connection with his employment. Shortly after he arrived in Canada, he filed a refugee protection claim pursuant to sections 96 and 97 of the IRPA.

- [12] The Applicant says that he filed his refugee claim because he received a call from his wife while he was in Canada that his best friend had been attacked in Kenya during his absence and had been badly injured, presumably because of his sexual orientation.
- [13] The Applicant formed the belief that he would also be attacked due to his sexual orientation if he returned to Kenya.

A. The Basis of Claim Allegations [14] The Applicant filed a signed Basis of Claim [BOC] form accompanied by a narrative on June 12, 2023, and another online application form on June 14, 2023. The Applicant amended his narrative with the assistance of counsel on May 13, 2024. What follows is a summary of the Applicant's BOC. The summary does not purport to be exhaustive, but highlights the essential grounds for refugee protection claimed by the Applicant.

- [15] The Applicant's original BOC contained allegations that he feared persecution if he returned to Kenya because of his sexual orientation as a gay man. He describes a fear of mistreatment and abuse arising out of what he describes as "mob justice" - groups of people hired to cause harm to a victim - that exists in villages throughout Kenya. The Applicant also alleges that one of his "best boyfriend by the name of Francis Maina" was murdered in his home village in December 1997 when people came in the night and lit his house aflame. The Applicant alleges that he began to fear for his life from that point onward.
- [16] The Applicant alleges that he is not in good terms with his immediate family, that he considers himself a nuisance to his family, friends and kinsmen. He alleges that homosexuality is illegal in Kenya and that many of his friends have been killed or are hunted down by mob justice because of their sexual orientation. He alleges that he has witnessed his close associates being killed by mob justice.

- [17] In a more particularized manner, the Applicant describes being the most harmed by his stepbrother, a local politician, who had organized individuals from his village to attack him. The Applicant did not identify when this attack took place in his original BOC. He alleges in his amended narrative that this attack took place in December 1996 and that the organized mob were paid by his stepbrother to have him attacked. He also claims that he was told that he would have been killed in that December 1996 attack had it not been for the intervention of the local chief.
- [18] The Applicant married a woman in 2004, and they together have three children, all of whom continue to reside in Kenya.
- [19] The Applicant claims that he has felt traumatized, stigmatized and isolated in Kenya since 2006. He claims that the police authorities who are supposed to protect him will not, and that people do not trust him because of his sexual orientation.
- [20] He also claims that he feared his cousins in October 2022, and that he believed that his cousins “planned to finish me”.
- [21] The Applicant fled to Uganda to stay with his aunt, only to be chased away by her once she learned that he had been beaten because he was a gay man. He had stayed with his aunt for 5 days.
- [22] The Applicant alleges that his life has been in danger and continues to be in danger in Kenya if he returns there. He alleges having no freedom of expression in Kenya. He alleges that the mistreatment accusations and threats he suffered in Kenya were sufficient for him to not have the urge to return.

B. The RPD Decision [23] The RPD panel noted at the outset of its decision that it took the Chairperson’s Guidelines on Proceedings Before the IRB Involving Sexual Orientation and Gender Identity and Expression, and Sex Characteristics [the SOGIESC Guidelines] into consideration when it assessed the Applicant’s credibility and evidence pertaining to sexual orientation, gender identity, and expression.

- [24] The RPD found that the Applicant had not established the essential facts required to support his refugee claim. The RPD found that the Applicant had not credibly established that he would be personally subjected to a danger of torture, risk to his life or risk of cruel and unusual treatment or punishment should he return to Kenya.
- [25] The RPD considered the Applicant’s testimony and found that the Applicant had omitted material facts that he spoke of in his testimony from his BOC and from his amended BOC. These facts related to the Applicant’s past relationships with men and, crucially, to the Applicant’s past significant relationship with one man, Joseph, who is deceased. The RPD accepted that the Applicant experienced trauma from Joseph’s death. However, the Applicant’s stated trauma did not explain why he had no difficulty remembering and referring to the deaths of other past boyfriends. The RPD found that the material omissions significantly undermined the Applicant’s credibility as a whole.

- [26] The RPD found that the Applicant's testimonial evidence of past same sex relationships with four different men was vague and replete with generic answers devoid of details that one would expect to be available if the romantic relationships had in fact taken place or were maintained in a place where same-sex orientation is criminalized. The RPD found that the Applicant's failure to provide specific details about these relationships and their maintenance undermined the credibility of his allegations about the nature of his same sex relationships.
- [27] The RPD explicitly considered the SOGIESC Guidelines and explained how they were applied in determining the credibility issues raised by the evidence that had been led. Considering the content of the SOGIESC Guidelines and of their application to the evidence led, the RPD found that the Applicant's overall credibility was impugned by his having omitted facts from his BOC and narratives, having given vague testimony, and having led inconsistent evidence more generally.
- [28] The RPD considered the Applicant's documentary evidence in light of the testimony provided and found that the documentary evidence was insufficient to establish the essential elements of his claim.
- [29] The RPD found that the cumulative negative credibility findings rebutted the presumption of the Applicant's truthfulness and led it to find that Applicant had not met his burden of establishing the basis of his refugee claim. The RPD found that Applicant did not establish that he is a gay man. The RPD also found that the Applicant had not made out that he faced a forward looking risk of danger of torture, or a risk to his life, or a risk of cruel and unusual treatment or punishment should he return to Kenya.

C. The Decision [30] The Applicant submitted to the RAD that the RPD had:

- a) erred in its credibility analysis of the claim and ignored the presumption of truthfulness;
- b) failed to demonstrably or meaningfully apply the SOGIESC Guidelines; and,
- c) failed to take into account that there was a language barrier during the hearing that likely had a negative impact on the evaluation of the Applicant's claim.

[31] The RAD considered each of these arguments.

[32] After a review of the evidence in the record before it, including evidence newly admitted on appeal, the RAD found that the RPD was correct in finding that the Applicant was neither a Convention refugee nor a person in need of protection. The RAD agreed with the RPD that the Applicant lacked credibility and that that absence of credibility undermined his claim entirely.

- [33] The RAD considered the Applicant's credibility arguments in significant detail and found that the RPD's conclusions were grounded and appropriate considering the Applicant's vague and inconsistent testimony about essential elements underpinning his claim. The presumption of truthfulness had well and clearly been rebutted.
- [34] The RAD found that the Applicant's omission from his BOC and narratives of key events that caused him to change his plans and to stay in Canada after the completion of the work conference that brought him to Canada justified significant negative inferences to be drawn as to his credibility. This negative inference was added to by the Applicant's inability to indicate, with some detail, specific places where he and his past boyfriends would meet, significant moments they had together, or any specific favourite memories together. The Applicant's testimony, noted the RAD, described different past boyfriends in nearly identical but vague terms.
- [35] The RAD also noted that the Applicant evaded questions about his past relationships or activities he may have undertaken with his boyfriends. The Applicant had not provided spontaneous details about his relationships or insight into his partners' personality, including for his most recent relationship and for his decades-long relationship with another man. The RAD held that the Applicant failed to provide sufficient credible evidence to establish his allegations.
- [36] The RAD considered the Applicant's argument that the RPD had failed to take a trauma-informed approach consistent with the SOGIESC Guidelines and found no support for the Applicant's argument in the evidence, in the recording of the hearing, or in the RPD's decision and reasons.
- [37] The Applicant's last argument was that there was a language barrier present during the hearing that likely had a negative impact on the RPD's evaluation of the Applicant's claim. The RAD considered the hearing transcript and the entire audio recording of the hearing, that a standby interpreter was available for the Applicant but that the Applicant chose to proceed in English in large part except when the RPD requested the assistance of the interpreter, and that there were no instances of miscommunication had not been cured during the hearing itself. The RAD found that the Applicant had shown that he was comfortable in the English language and had a good command of the English language. The RAD found that the RPD's conduct ensured that the Applicant's right to be heard was upheld.
- [38] The RAD found that the need for clarifications, for the rephrasing of questions, and the occasional use of the standby interpreter did not negatively impact the Applicant's ability to testify and present his case.
- [39] The Applicant's grounds of appeal based on procedural fairness were therefore rejected.

III. The Issue [40] The issues before the Court are whether the RAD's decision is reasonable, and whether the proceeding has been tainted by a breach of the Applicant's right to procedural fairness.

[41] The parties agree that the applicable standard of review is the reasonableness standard discussed in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [Vavilov]. The Court agrees with the parties in this regard.

[42] While there is no standard of review applicable to allegations of breaches of procedural fairness, the Court's consideration of whether the process was fair resembles applying a correctness standard.

IV. The Standard of Review and Procedural Fairness [43] The presumptive standard of review applicable to an administrative decision is the reasonableness standard as explained by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov].

[44] The Court 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).

- [45] 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).
- [46] 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 [CPR at paras 55-56].
- [47] As with a reasonableness review, the onus lies with the Applicant to establish that their rights of procedural fairness were breached.

V. Arguments and Analysis A. The SOGIESC Guidelines were not misapplied [48] The Applicant's first argument is that the Decision is unreasonable because both the RAD and the RPD failed to properly apply the SOGIESC Guidelines.

- [49] Madam Justice Catherine Kane of this Court provided a thoughtful and insightful analysis of the SOGIESC Guidelines and the role they play in judicial review in *Islam v. Canada (Citizenship and Immigration)*, 2024 FC 1671 at paragraphs 64 to 70 inclusively. Her Honour notes at paragraph 67 that "The Guideline does not change the established principles regarding the sufficiency of evidence or the indicia that support credibility findings", and later in the same paragraph that, "The Guideline cautions that cultural, psychological or

other barriers should be considered in assessing the explanation for an omission.”

- [50] The evidence in the record is that the RAD considered the SOGIESC Guidelines and that the RPD considered and applied the SOGIESC Guidelines. There is no evidence that the RAD or the RPD failed to apply the SOGIESC Guidelines or failed to apply them properly. The Applicant nevertheless disagrees with how the SOGIESC Guidelines were applied because he is dissatisfied with the result that followed their application.
- [51] While the Court understands the Applicant’s disagreement with the RAD’s determinations as to the SOGIESC Guidelines’ application by the RPD, that disagreement does not inform the analysis of whether the RAD’s decision was justified in light of the record and the established law regarding credibility findings.
- [52] The RAD’s examination and analysis of the manner in which the RPD considered and applied the SOGIESC Guidelines in light of the Applicant’s evidence reflects that the Applicant’s first argument is without factual foundation and must be rejected.

B. Credibility Assessment Errors [53] The Applicant largely repeats the credibility arguments he had raised before the RAD on the basis that the RAD, and the RPD before it, failed to account for the trauma and cultural factors that likely affected the Applicant’s testimony. The Applicant also argues that the RAD unreasonably discounted consistent testimony from the Applicant and engaged in an unfair and flawed credibility assessment.

- [54] Madam Justice Rochester (as she then was), ably summarized the jurisprudence of this Court and how it informs the Court’s approach to questions of credibility on judicial review as follows at paragraph 10 of *Onwuasoanya v. Canada (Citizenship and Immigration)*, 2022 FC 1765 as follows:
- [10] Credibility determinations are part of the fact-finding process, and are afforded significant deference upon review (*Fageir v Canada (Citizenship and Immigration)*, 2021 FC 966 at para 29 [*Fageir*]; *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 at para 35 [*Tran*]; *Azenabor v Canada (Citizenship and Immigration)*, 2020 FC 1160 at para 6). Such determinations by the RPD and the RAD demand a high level of judicial deference and should only be overturned “in the clearest of cases” (*Liang v Canada (Citizenship and Immigration)*, 2020 FC 720 at para 12). Credibility determinations have been described as lying within “the heartland of the discretion of triers of fact [...] and cannot be overturned unless they are perverse, capricious or made without regard to the evidence” (*Fageir* at para 29; *Tran* at para 35; *Edmond v Canada (Citizenship and Immigration)*, 2017 FC 644 at para 22, citing *Gong v Canada (Citizenship and Immigration)*, 2017 FC 165 at para 9).

- [55] The Applicant's argument fails to take into account the clear evidence in the record that both the RAD and the RPD did in fact account for the trauma and cultural factors that may have affected the Applicant in the manner in which he provided his evidence. Even considering those factors, the RAD and the RPD found the Applicant to lack credibility with respect to the essential elements of his claim. The Applicant's first argument has no support in the record.
- [56] The Applicant's argument that the RAD focussed on peripheral factual inconsistencies in his evidence and unreasonably discounted the broad strokes of his evidence also fails to find factual support in the record.
- [57] The RAD approached the Applicant's evidence in a principled and sensitive manner. The RAD found that the Applicant's inability to provide insight into his shorter or longer-term relationships with the persons he identified as his past partners detrimentally affected his credibility. The RAD noted that the RPD had not been searching for exhaustive details of each of the Applicant's relationships, but rather for details that would be reasonably expected to be recalled by someone engaged in a relationship with a partner. The RAD found that the Applicant's inability to describe past partners' personalities with any insight, the activities they undertook together and had in common and made their relationships what they were, or the places they would meet, even if covertly, detrimentally affected the Applicant's credibility. The RAD also noted that the Applicant's counsel could not point to any specific evidence of such details being provided by the Applicant in his evidence.
- [58] The Court finds the RAD's conclusions as to the Applicant's credibility to be amply supported by the evidence in the record and justified by the absence of probative details that might support the Applicant's claim.
- [59] The Applicant has not persuaded the Court that the RAD was unjustified in its conclusions, or that its credibility conclusions were not appropriately grounded in the record before it. Considering the jurisprudence and the record before the Court, there is no basis for the Court to interfere with the RAD confirmation of the RPD's credibility findings.

C. The RAD's findings as to procedural fairness were reasonable [60] The Applicant argues that the RAD's findings that the hearing before the RPD was procedurally fair was unreasonable because it failed to fully accommodate the Applicant's language and cultural barriers.

- [61] The Applicant argued before the RAD that the Applicant's difficulty in pronouncing English words and phrases, combined with his distinct accent, created significant challenges in communication, which were apparent throughout the hearing and were not adequately accommodated. The Applicant did not pinpoint the instances of challenges in communication he relies upon in his argument to the RAD, or in his submissions made before this Court. The Applicant has therefore not established the factual basis for a potential finding of a breach of procedural fairness in this regard.

- [62] The Applicant argues that the RAD failed to meaningfully consider the impact of occasional clarifications by the interpreter on the Applicant's ability to communicate effectively, and, whether the Applicant's narrative may have been compromised as a result. No pinpoint of any specific instance of the alleged impact of an occasional clarification was cited to the RAD by the Applicant, and none is cited before this Court. The Applicant has not established the factual basis for a potential finding of a breach of procedural fairness in this regard either.
- [63] The Applicant raises new arguments with respect to language barriers and procedural fairness for the first time on this judicial review. These new arguments are that the RAD failed to follow the language barrier guidance found in the UNHCR's Handbook on Procedures and Criteria for Determining Refugee Status [the UNHRC Handbook] or found in academic research such as in *Language and Trauma: Refugee Stories in Second Languages* (Oxford University Press, 2018).
- [64] There is no evidence in the record to suggest that these arguments could not have been raised before the RAD. Indeed, these arguments should have been raised before the RAD in order to provide the RAD with an opportunity to consider them. The Court cannot find the RAD acted unreasonably or breached procedural fairness by failing to consider arguments that had not been made before it (*Mohamed v. Canada* (Public Safety and Emergency Preparedness), 2023 FC 324, at para 21). The Applicant's new arguments advanced for the first time in this proceeding cannot be considered as they constitute new issues on judicial review (*Singh v. Canada* (Citizenship and Immigration), 2023 FC 875 at paras 33 to 60; *Bhullar v. Canada* (Citizenship and Immigration), 2023 FC 1136, at paras 25 and 26; *Saini v. Canada* (Citizenship and Immigration), 2024 FC 1484, at paras 18 to 27).
- [65] The Applicant argues that his counsel had to intervene repeatedly during the hearing before the RPD to address the Applicant's difficulty in articulating his narrative and the RPD member's struggle to comprehend the Applicant's accent. The Applicant failed to pinpoint any such interventions to the RAD in his submissions on appeal and similarly fails to pinpoint any such interventions in the record before this Court. As with the other alleged but unidentified grounds of an alleged breach of procedural fairness, it follows that the Applicant has not established the factual basis for a potential finding of a breach of procedural fairness in light of his counsel's interventions during the hearing before the RPD.
- [66] The Applicant has not established a factual basis upon which a breach of procedural fairness could be found. He has not met his burden to justify the Court's intervention with the RAD's Decision on the basis of procedural fairness.

D. The RAD did not apply evidentiary standards inconsistently [67] The Applicant argues that the RAD's decision to place significant weight on the absence of corroborative evidence from the LGBTQ Kenya Society and other sources reflects a failure to consider the inherent challenges faced by LGBTQ activists operating in oppressive environments.

- [68] The RAD considered the RPD's determinations regarding the sufficiency of the documentary evidence led by the Applicant. The RAD determined that the RPD was correct in finding that the Applicant's failure to provide corroborative evidence from the LGBTQ Society in Kenya gave rise to a negative inference. The Applicant's evidence did not explain why he would be unable to obtain some form of supportive evidence from the LGBTQ Society when it continued to be active on WhatsApp despite that its office had been closed.
- [69] The Applicant attacks the RAD's reasoning and conclusion by relying upon para 204 of the UNHCR's Handbook and by arguing that corroborative evidence should not be treated as an absolute requirement, particularly in cases involving persecutions.
- [70] Mr. Justice Shirzad Ahmed of this Court addressed this type of issue in *Musoro v. Canada* (Citizenship and Immigration), 2022 FC 1725 [Musoro] and wrote as follows at paragraph 40:
- [40] In my view, the RAD reasonably upheld the RPD's determination on the lack of corroborative evidence. It is trite law that although a negative credibility finding cannot be drawn solely from the absence of corroborative evidence, a failure to provide such evidence can be a valid consideration when assessing credibility if the claimant's credibility is already at issue and no reasonable explanation is provided (*Luo v Canada* (Citizenship and Immigration), 2019 FC 823 at paras 18-22 ("Luo"); *Amarapala v Canada* (Minister of Citizenship and Immigration), 2004 FC 12 at para 10; *Ndjavera v Canada* (Citizenship and Immigration), 2013 FC 452 at paras 6-7). A failure to proffer evidence that could be reasonably expected may also validly lead to an adverse credibility finding (*Luo* at para 21; *Radics v Canada* (Citizenship and Immigration), 2014 FC 110 at paras 31-32 ("Radics")).
- [71] As was the case in *Musoro*, the RAD explained its reasoning and applied the principles regarding corroborative evidence in its Decision. The Applicant has not established that the RAD's consideration of the RPD's negative inference arising from the absence of corroborative evidence was unreasonable in light of the record.
- [72] Finally, the Applicant argues that the RAD acted unreasonably in agreeing with the RPD's findings that two tendered letters of support from the Applicant's friends were of low weight. The RAD properly applied the Federal Court of Appeal's teachings in *Sheikh v. Canada* (Minister of Employment and Immigration), 1990 CanLII 13057 (FCA), [1990] 3 FC 238, at page 244, that a general finding of a lack of credibility on the part of the applicant may conceivably extend to all relevant evidence emanating from his testimony. A review of the letters shows that they in fact provide little probative evidence in support of the Applicant's claim. The Applicant has not persuaded me there is a basis for the Court to interfere with the RAD's findings as to two support letters.
- [73] The RAD's assessment and conclusions are supported by the record and by the applicable law.

VI. Conclusions [74] The Applicant has not met his burden of demonstrating that the Decision is unreasonable. His application for judicial review is therefore dismissed.

[75] Neither party has suggested that there is serious question of general importance involved in this proceeding. I agree with the parties that no such question arises. No question will be certified.

JUDGMENT in IMM-21467-24

THIS COURT'S JUDGMENT is that:

The Applicant's application for judicial review is dismissed.

There is no serious question of general importance involved in this proceeding to be certified.

No party shall be awarded costs.

"Benoit M. Duchesne"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-21467-24

STYLE OF CAUSE:

NATHANIEL NALYANYA v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING:

videoconference

DATE OF HEARING:

november 13, 2025

judgment AND REASONS:

duchesne, j.

DATED:

may 5, 2026

APPEARANCES:

Rita Manuwa

For The Applicant

Holly Hargreaves

For The Respondent

SOLICITORS OF RECORD:

Manuwa Law

Edmonton, Alberta

For The Applicant

Attorney General of Canada

Calgary, Alberta

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/530516/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/nalyanya-v-canada-citizenship-and-immigration-2026>

Prepared on 26 October 2026 · Esheria