

CANADA / JUDGMENT

Samuel v. Canada (Citizenship and Immigration)

2026 FC 410

COURT

Federal Court

DECIDED

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Date: 20260330

Docket: IMM-8868-25

Citation: 2026 FC 410

Vancouver, British Columbia, March 30, 2026

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

YONATAN SAMUEL

Applicant

and

THE MINISTER OF CITIZENSHIP

AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview [1] The Applicant, Yonatan Samuel, claims to be Yared Gebremeskel Paulos and a citizen of Eritrea. The Applicant reports a fear of persecution and harm in Eritrea based, primarily, on his political opinion.

- [2] On October 7, 2024, the Refugee Protection Division [RPD] refused the Applicant's claim, finding he was neither a Convention refugee, nor a person in need of protection because he had failed to establish his identity on a balance of probabilities. The Refugee Appeal Division [RAD] upheld the RPD's findings and dismissed the Applicant's appeal on March 26, 2025.
- [3] The Applicant seeks judicial review of the RAD's decision under subsection 72(1) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA], arguing that the RAD (1) unreasonably interpreted the requirements under subsection 110(4) of the IRPA and (2) erred in its assessment of his credibility and identity.
- [4] For the reasons that follow, the application for judicial review will be dismissed.

II. Background [5] The Applicant irregularly entered Canada from the United States [US] on December 7, 2021, without a passport or national identity document. He was detained by the Canada Border Services Agency [CBSA] on identity grounds and was interviewed by CBSA on several occasions before being released from detention in January 2022.

- [6] The Applicant, providing a US driver's licence, initially identified himself as Yonathan Samuel, an Eritrean citizen born in February 1975. The Applicant also initially stated that he had left Eritrea for Sudan in 2014, before entering Mexico, the US and then Canada. In a subsequent interview, the Applicant reported that he had provided false information to Canadian and US authorities and claimed that his name is Yared Gebremeskel.
- [7] In his February 2022 Basis of Claim [BOC], the Applicant reported his name as being Yared Gebremeskel Paulos, and that he is a citizen of Eritrea. He also reported he had fled Eritrea for Italy in November 2002 due to his political opinion and because he had evaded national military service. He then reportedly travelled from Italy to Switzerland, where his claim for refugee protection was initially rejected.
- [8] The Applicant further reported he was subject to ongoing discrimination and racism in Switzerland and, as a result, decided to leave that country, travelling through Spain, then Mexico before crossing the border into the US in June 2015. The Applicant stated that he was detained for seven months in the US, that his asylum claim there was rejected, and that he left the US for Canada in December 2021.

III. RPD Decision [9] The Respondent, the Minister of Immigration and Citizenship, intervened before the RPD on the issues of identity and credibility.

[10] In refusing the claim, the RPD considered the Applicant's testimony and his interactions with CBSA following his arrival in Canada. Citing several inconsistencies relating to the Applicant's identity it found significant and not to have been reasonably explained – the Applicant's use of different names in different countries and on social media profiles, conflicting dates of birth, and differing narratives describing his route to Canada – the RPD drew negative credibility inferences. The RPD acknowledged the Applicant spoke the majority language of Eritrea and was aware of the country conditions of Eritrea, but concluded this to be insufficient to establish, on a balance of probabilities, his personal and national identity.

[11] The RPD then considered the documentary evidence relied on to establish the Applicant's personal and national identity, including an Eritrean certificate of birth in the name of Yared Gebremeskel Paulos and various letters of support, including letters from Zekarias Paulos and Rahel Paulos, the Applicant's alleged brother and sister. Relying upon a forensic laboratory report generated in response to a CBSA request, the RPD found that on the balance of probabilities the Eritrean certificate of birth issued to Yared Gebremeskel Paulos was not a genuine document and gave no weight to it. The RPD noted the birth certificate contained typographical errors and formatting inconsistencies, and that the manner in which it was reportedly obtained by the Applicant's alleged brother in 2006 in Eritrea was inconsistent with the objective country evidence. The RPD also held that the letters of support were not sufficient to establish the Applicant's personal and national identity.

IV. RAD Decision – the Decision Under Review (1) Issues before the RAD [12] The Applicant appealed to the RAD, arguing that: (1) the RPD applied the wrong legal test in assessing his personal and national identity; (2) the RPD unreasonably determined his credibility was undermined based on inconsistencies between his testimony and statements made to CBSA; (3) the RPD made numerous errors in assessing his identity documents; and (4) the RPD erred in assessing his identity evidence in a piecemeal fashion.

[13] The Respondent again intervened, presenting new evidence, including an Ontario certificate of marriage for Yonatan Samuel, and making submissions.

(2) The Applicant's proposed new evidence [14] In support of his appeal, the Applicant sought to admit several documents as new evidence. The RAD admitted (1) a refugee protection claimant document in the name of Yared Gebremeskel Paulos issued by Immigration, Refugees and Citizenship Canada on November 11, 2024, and (2) a psychotherapy report regarding Yared Gebremeskel Paulos dated January 31, 2025, finding these documents satisfied the newness, credibility, and relevancy criteria (IRPA, s 110(4); *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96 [Singh]; *Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385). The RAD also accepted four items of evidence, which responded to the Respondent's evidence, under subsection 110(5) of the IRPA.

- [15] The Applicant also sought to place the results of a DNA sibling test dated January 26, 2025, before the RAD. The test reported the positive “probability of relatedness” between Yonatan Samuel and his reported brother, Zekarias Gebremeskel Paulos [DNA Report]. The RAD refused to accept the DNA Report as new evidence, finding the DNA test could have been obtained and presented to the RPD, where identity was a central issue, and was therefore reasonably available to the Applicant. The RAD noted that, from the time of the first hearing before the RPD to the issuance of RPD’s decision, nearly a year had passed and that DNA testing in refugee claims to establish identity is not a novel practice. The RAD dismissed the Applicant’s submission that he could not reasonably have expected the RPD to find his other evidence insufficient to establish either siblingship or his identity and, therefore, he could not reasonably have been expected to establish his siblingship through DNA testing.
- [16] The RAD similarly rejected a letter of support from Zekarias Gebremeskel Paulos, received by the Applicant on January 11, 2025, finding the letter did not meet the IRPA requirements for the admissibility of new evidence.
- (3) Review of the RPD’s decision [17] In reviewing the RPD’s decision, the RAD first held that the RPD had identified and applied the correct legal test in finding that the Applicant had not met his burden to establish his identity. The RAD also found that the RPD had not erred in assessing the Applicant’s credibility, noting the Applicant acknowledged (1) in his appeal record and during the RPD hearings, that he had provided false information during the CBSA interviews in December 2021, and (2) that the RPD was entitled to draw an adverse credibility inference based on inconsistencies between the CBSA interviews and the Applicant’s RPD testimony.
- [18] Outlining what it characterized as “numerous ... inconsistencies in the evidence” regarding the Applicant’s name, date of birth, information about his parents and siblings, and his route to Canada, the RAD also found that the false statements made by the Applicant to CBSA were but one of many factors the RPD considered in correctly making its negative credibility findings. The RAD then considered the Applicant’s various explanations but found these did not reasonably explain the inconsistent evidence.
- [19] Lastly, the RAD agreed with the RPD that the Applicant’s documentary evidence, including the Eritrean certificate of birth and letters of support, and his knowledge of the language and country conditions of Eritrea were not sufficient to establish his personal and national identity. Rejecting the Applicant’s argument that the totality of the evidence, including his testimony and the objective country evidence, demonstrates the Eritrean certificate of birth is a genuine document, the RAD held the RPD did not err in finding the birth certificate was not authentic.
- [20] The RAD concluded the Applicant had failed to establish on a balance of probabilities his personal and national identity, and that the RPD was correct in finding the Applicant was neither a Convention refugee, nor a person in need of protection.

V. Issues and Standard of Review [21] Both Parties agree that the issue before the Court is the reasonableness of the RAD's decision, specifically the RAD's refusal to admit the Applicant's DNA Report and its assessment of the Applicant's credibility and identity.

[22] For the purposes of the analysis below, I have framed the issues as follows:

Was the RAD's refusal to admit the DNA Report unreasonable?

Was the RAD's analysis on the issues of identity and credibility unreasonable?

[23] The Parties further agree, and I concur, that the RAD's decision, including its treatment of the Applicant's proposed new evidence, is to be reviewed on the presumptive standard of reasonableness (Singh at para 74).

[24] 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" (Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 at para 85 [Vavilov]; Mason v Canada (Citizenship and Immigration), 2023 SCC 21 at para 8). The party challenging a decision has the burden of demonstrating to a reviewing court "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).

VI. Analysis A. Did the RAD err in refusing to admit the DNA report as new evidence? [25] Subsection 110(4) of the IRPA governs the admissibility of new evidence before the RAD, stating:

Evidence that may be presented

Éléments de preuve admissibles

110. (4) On appeal, the person who is the subject of the appeal may present only evidence that arose after the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented, at the time of the rejection.

110. (4) Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés, dans les circonstances, au moment du rejet.

[26] Subsection 110(4) provides that the RAD can only consider new evidence where (1) it arose after the RPD's decision, or (2) the evidence was not reasonably available, or the appellant could not reasonably have been expected to present it at the time of the RPD's decision. The test is disjunctive; where the RAD determines an appellant's evidence satisfies either of the two conditions identified in subsection 110(4), the evidence may be admitted, subject to the RAD's discretion to refuse the evidence (Olowolaiyemo v Canada (Citizenship and Immigration), 2015 FC 895 at paras 19-20). However, where none of the subsection 110(4) requirements are met, the RAD must refuse to admit the evidence (Deri v Canada

(Citizenship and Immigration), 2015 FC 1042 at para 55).

- [27] The Applicant submits the RAD erred in refusing to admit the DNA Report, arguing the RAD (1) ignored his sworn evidence explaining why he could not have presented the DNA Report earlier (*Mohamed v Canada (Citizenship and Immigration)*, 2020 FC 1145 at paras 34-36 [Mohamed]), and presumed he must have been aware of the possibility of DNA testing because he was represented by “specialized refugee legal counsel,” and (2) incorrectly interpreted the principles set out in *Singh* addressing the RAD’s discretion when considering the admissibility of new evidence (*Haneefa v Canada (Citizenship and Immigration)*, 2025 FC 1102 at paras 18-22 [Haneefa]).
- [28] I address these arguments below. The Applicant’s assertion that the DNA Report is “obviously a conclusive match” that is probative, credible, relevant does not demonstrate that the RAD erred in considering the DNA report as new evidence. The assertion reflects nothing more than mere disagreement with the RAD, and I need not consider it further.
- (1) The RAD did not unreasonably consider the Applicant’s evidence explaining why the DNA Report satisfied the subsection 110(4) criteria [29] The RAD’s explanation for rejecting the evidence – the Applicant was represented by counsel, reliance on DNA testing to establish identity in refugee matters was not novel, identity and credibility were identified as determinative issues at the outset of the RPD proceedings, and the length of those proceedings – was responsive to the Applicant’s submissions and supportive of the finding that the Applicant had ample opportunity to submit evidence to establish his identity before the RPD, including obtaining and submitting a DNA test.
- [30] In written and oral submissions, the Applicant took issue with the RAD’s statement that DNA testing was not novel in refugee claims. Pointing to the jurisprudence the RAD cited in support of that statement (*Mutende v Canada (Citizenship and Immigration)*, 2011 FC 1423 [Mutende] and *Teclebrhan v Canada (Citizenship and Immigration)*, 2025 FC 228 [Teclebrhan]), it was argued that *Mutende* did not involve the determination of a claim before the Immigration and Refugee Board of Canada, but rather a determination of ineligibility to claim refugee protection where the Safe Third Country Agreement was of application, and in *Teclebrhan* the RPD had raised the issue of a DNA test to establish identity with the applicant. While the cases cited do not involve identical circumstances, they are not inconsistent with the RAD’s finding that the use of DNA testing in the refugee context is not novel. *Vavilov* teaches that judicial review is not a treasure hunt for error (at para 102). The RAD’s failure to more precisely express the point being made in this instance does not undermine the reasonableness of the decision.
- [31] An applicant must also bear the consequences of their choice of counsel (*Singh* para 66, citing *Cove v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 266 at paras 6-11). That counsel did not advise the Applicant of the availability of a DNA report does not undermine the RAD’s reliance on the fact that the Applicant was “represented by specialized refugee legal counsel as early as December 21, 2021.”

- [32] Nor did the RAD commit the error identified by Justice Nicholas McHaffie in *Mohamed* where contradictory evidence in the context of an allegation of inadequate representation was not addressed by the RAD.
- (2) The RAD did not unreasonably rely upon a narrow interpretation of subsection 110(4) of the IRPA [33] I am also not persuaded that the RAD adopted an unreasonably narrow interpretation of 110(4). The RAD has no discretion to admit new evidence where the 110(4) criteria have not been satisfied (Singh at paras 35, 63), and the RAD correctly acknowledged this to be so. However, the narrowly prescribed criteria do not relieve the RAD of its obligation to apply the criteria in a manner that considers the evidence, circumstances and submissions before it (Haneefa at para 20, citing Singh at para 64). In this case, the RAD did engage with the Applicant's evidence and submissions. In doing so, it provided cogent reasons for concluding the Applicant had not satisfied the 110(4) requirements.
- [34] The Applicant further argues the RAD erred by failing to consider whether the DNA test arose after the rejection of the claim by the RPD, particularly as it was dated after the RPD decision had been rendered. Again, I disagree. A contextual and holistic reading of the RAD's decision demonstrates that, implicitly, the RAD considered and concluded that the evidence disclosed in the DNA Report arose prior to the rejection of the claim. As in *Jadallah v Canada (Citizenship and Immigration)*, 2016 FC 1240, "...given the specific references to the timing of the documents and events... [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... [therefore]... one cannot say it 'arose after the rejection of the claim'" (at para 33).
- [35] The RAD reasonably interpreted and applied the requirements under subsection 110(4) of the IRPA. The RAD's treatment of the DNA Report was not unreasonable.

B. The RAD's identity and credibility determinations were reasonable [36] The Applicant submits the RAD's findings on identity and credibility are unreasonable because it:

Ignored his sworn evidence, including evidence regarding memory issues.

Simply adopted the RPD's findings and, in doing so, failed to review certain errors committed by the RPD, but also made new credibility findings.

Failed to adopt a trauma-informed approach in assessing the claim.

Focused on minor errors and inconsistencies in the documentary evidence, held certain of that evidence to too high standard by applying "North American" logic, and failed to meaningfully grapple with the objective country evidence indicating deficiencies in the Eritrean birth certificate system.

Unreasonably considered and gave weight to his dishonesty in past immigration proceedings and the minor inconsistencies in his evidence, and failed to address the merits of the refugee claim.

- [37] None of the arguments advanced by the Applicant and summarized above identify a reviewable error on the part of the RAD.
- [38] The argument that the RAD ignored evidence and merely adopted the RPD's findings is not persuasive. The RAD first noted that the Applicant did not dispute the accuracy of the RPD's finding that his CBSA statements were inconsistent and shifting. The RAD then detailed the basis for finding the Applicant's testimony before the RPD was both inconsistent and contradictory of his BOC, why it placed reliance on the content of the Applicant's CBSA interviews, and for finding that the false information provided to CBSA was but one of a number of factors leading to the RPD's negative credibility findings. Having done so, it was not an error for the RAD to then consider the RPD's findings and variously agree with those findings or detail why it was not persuaded that the RPD had erred.
- [39] This Court's jurisprudence holds that once it has been established that a claimant has not been truthful in their prior dealings with immigration authorities, the presumption of truthfulness no longer applies (*Elfar v Canada (Citizenship and Immigration)*, 2012 FC 51 at para 4). I therefore see no error in the RAD finding the RPD correctly drew negative credibility inferences based on the Applicant's misrepresentation during the CBSA interviews and because of numerous other inconsistencies in the evidence that had not been reasonably explained, including by the Applicant's anxiety and memory issues. The inconsistencies identified by the RPD and the RAD relate to significant and material aspects of the Applicant's identity, including his name, his date of birth, the names of his parents and his family composition, and his route to Canada. These are not minor or trivial differences, contrary to the Applicant's submission. I also note that the RPD directly addressed this submission in stating that "[t]he issue here is not that the Applicant's name appears in different fashion in different documents... [r]ather, the issue here is that he is known by different names in several different countries."
- [40] Nor has the Applicant convinced me that the RAD's failure to consider spelling errors or the RPD's failure to recall whether certain matters had been addressed in an earlier hearing undermine the reasonableness of the RAD's decision. Further, while the RAD may have misapprehended or misinterpreted evidence relating to the name the Applicant used on an Ontario marriage certificate, any such error is not sufficient to warrant intervention on judicial review.
- [41] In addition, the RAD does meaningfully grapple with the objective country evidence disclosing deficiencies in record-keeping in Eritrea in upholding the RPD's finding that the Eritrean birth certificate was not genuine based on the content of the document and the manner in which it was reportedly obtained. The Applicant may disagree with the RAD's assessment of the evidence and the conclusion reached, but it is not the Court's role on judicial review to reweigh evidence.

[42] Finally, the argument that the RAD erred in failing to consider the merits of the claim in solely addressing the issues of credibility and identity must also fail. Identity is at “the very core of every refugee claim” (Hassan v Canada (Immigration, Refugees and Citizenship), 2019 FC 459 at para 27) and a claimant’s failure to establish their identity is fatal to the claim (Terganus v Canada (Citizenship and Immigration), 2020 FC 903 at paras 22-25).

VII. Conclusion [43] The application for judicial review is dismissed.

[44] Neither Party has proposed a question of general importance for certification, and I agree that none arise.

JUDGMENT IN IMM-8868-25

THIS COURT’S JUDGMENT is that:

This application for judicial review is dismissed.

No question is certified.

“Patrick Gleeson”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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