

CANADA / JUDGMENT

Smith v. Canada (Citizenship and Immigration)

2026 FC 274

COURT
Federal CourtDECIDED
27 February 2026

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

Source record

Smith v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2026-02-27

Neutral citation

2026 FC 274

File numbers

IMM-6041-25

Decision Content

Date: 20260227

Docket: IMM-6041-25

Citation: 2026 FC 274

Ottawa, Ontario, February 27, 2026

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN: ANN MARIE NICOLA SMITH
Applicant
and
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION
Respondent
JUDGMENT AND REASONS

[1] Ann Marie Nicola Smith is a citizen of Jamaica. She seeks judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board [IRB]. The RAD confirmed the determination of the Refugee Protection Division [RPD] of the IRB that Ms. Smith is neither a Convention refugee nor a person in need of protection pursuant to ss 96 and 97(1) of the Immigration and Refugee Protection Act, SC 2001, c 27.

[2] Ms. Smith says that she fled Jamaica because she was severely abused by her former husband. She applied to work on a farm in Canada and arrived in this country in June 2021. She claims that she was abused while working on the farm. She made

an inland claim for refugee protection in July 2023.

[3] Ms. Smith's former husband died on August 24, 2024. At the hearing before the RPD, Ms. Smith identified a new risk arising from her former husband's leadership role in the "Sparta Gang". She claimed to fear persecution by her former husband's family and members of his gang.

[4] The RPD rejected Ms. Smith's claim on October 29, 2024. The RPD accepted that Ms. Smith had been abused by her former husband, but found that the remainder of her claims lacked credibility. The RPD rejected Ms. Smith's assertion that her former husband was a gang leader. The RPD found that Ms. Smith did not have a good reason for omitting this information from her basis of claim [BOC] form or amendments to her narrative. The RPD held there was no credible risk from her former husband's family, and that Ms. Smith would not face gender-related persecution or personalized risk based on her status as a single woman. Ms. Smith appealed to the RAD.

[5] The RAD dismissed Ms. Smith's appeal on February 21, 2025. The RAD agreed that there was insufficient evidence to establish that her former husband was a leader of the Sparta Gang. The RAD noted that the only evidence of her former husband's involvement in the gang was an unsourced one-page media headline that "Tommy Lee Sparta" had been arrested, and her testimony that she overheard a conversation in 2008 during which her former husband mentioned his involvement in the Sparta Gang.

[6] The RAD also concluded that Ms. Smith did not face a forward-looking risk in Jamaica. The RAD admitted new evidence of a note from her son reporting that a man had come to the family home and asked about her. The note was accompanied by a photograph of the man. The RAD concluded that this did not support the existence of the Sparta Gang, the involvement of Ms. Smith's former husband in the gang, or the allegation that she would face persecution if she returned to Jamaica.

[7] The RAD's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where "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).

[8] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (Vavilov at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[9] In oral submissions, Ms. Smith's counsel limited her challenge to the RAD's decision to a single ground: the RAD accepted (at para 12 of its decision) that Ms. Smith's failure to disclose in her BOC form or amendments to her narrative that her former husband was a leader of a dangerous gang may have been due to the trauma she experienced as a victim of domestic violence. It was therefore inconsistent for the RAD to find (at para 14 of its decision) that there was insufficient evidence on the record to establish that her former husband was a leader of the Sparta Gang. Ms. Smith argues that the RAD did not properly apply the Chairperson's Guideline 4: Gender Considerations in Proceedings Before the Immigration and Refugee Board [Gender Guidelines].

[10] The Respondent replies that the Gender Guidelines cannot be relied upon to cure all deficiencies in an applicant's claim or evidence (citing *Jeyaratnam v Canada (Citizenship and Immigration)*, 2018 FC 1244 at para 54). The RAD's assessment of the evidence of the alleged involvement of Ms. Smith's former husband in the Sparta

Gang and finding that there was no forward-looking risk were both reasonable.

[11] Ms. Smith provided very few details of the conversation she claimed to have overheard regarding her former husband's involvement in the Sparta Gang. It was open to the RAD to conclude that the unsourced media headline was not sufficient to prove her allegations. The RAD also noted the lack of objective evidence regarding the gang's existence. It is not for this Court to reweigh the evidence (Vavilov at para 125).

[12] The RAD reasonably concluded that there was insufficient evidence to establish a forward-looking risk to Ms. Smith in Jamaica. The RAD accepted her new evidence of a visit to the family home by an unknown man, but reasonably determined that this did not support the existence of the Sparta Gang, the involvement of Ms. Smith's former husband in the gang, or the allegation that she will be persecuted by her former husband's family or gang members if she returns to Jamaica.

[13] The application for judicial review is dismissed. Neither party proposed that a question be certified for appeal.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed. "Simon Fothergill" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-6041-25 STYLE OF CAUSE: ANN MARIE NICOLA SMITH v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: TORONTO, Ontario DATE OF HEARING: February 16, 2026 JUDGMENT AND REASONS: FOTHERGILL J. DATED: February 27, 2026 APPEARANCES: Elio Yarali For The Applicant Emma Arenson 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

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/530045/index.do>

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

Prepared on 26 October 2026 · Esheria