

Federal Court



Cour fédérale

**Date: 20200331**

**Docket: IMM-3984-19**

**Citation: 2020 FC 456**

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

**Ottawa, Ontario, March 31, 2020**

**PRESENT: The Honourable Mr. Justice Gascon**

**BETWEEN:**

**ADEBUSOLA OLUFUNMILOLA FATOYE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The applicant, Adebunola Olufunmilola Fatoye, is a citizen of Nigeria. She seeks judicial review of a decision of the Refugee Protection Division [RPD] dated June 3, 2019 [Decision], in which the RPD refused to grant her status as a refugee or a person in need of protection under

sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The RPD was of the view that Ms. Fatoye's account was not credible and that her claim was manifestly unfounded under section 107.1 of the IRPA.

[2] The only issues raised by Ms. Fatoye's claim are whether the RPD Decision is unreasonable and whether the RPD erred in finding, on the one hand, that Ms. Fatoye was not credible and, on the other hand, that her refugee protection claim was manifestly unfounded.

[3] For the reasons stated below, I will dismiss Ms. Fatoye's application. Having considered the RPD's findings, the evidence before the panel and the applicable law, I can find no basis for overturning the Decision. The shortcomings in the evidence submitted by Ms. Fatoye and the contradictions in her testimony reasonably support the unfavourable conclusions of the RPD regarding her credibility, and the RPD's reasons possess the qualities that make its reasoning logical and consistent with regard to legal and relevant facts. The same applies to the RPD's conclusions on the fraudulent and manifestly unfounded nature of Ms. Fatoye's refugee protection claim. There are therefore no grounds warranting the Court's intervention.

## **II. Background**

### **A. *Facts***

[4] Ms. Fatoye is 34 years old and married to a lawyer who practises in human rights law in Nigeria. Together, they have an adopted daughter.

[5] On July 27, 2017, while residing in Ekiti State in Nigeria, Ms. Fatoye allegedly received an anonymous letter containing threats. The unknown author or authors of this letter stated that they were watching Ms. Fatoye's family, taking care to list the addresses of her two other residences in Nigeria, one in Ekiti State and the other in Ondo State. At the time, neither Ms. Fatoye nor her husband understood why the letter was sent. The next day, Ms. Fatoye's husband allegedly received a second letter in which he was warned not to intervene in this affair, since his family would suffer the consequences. Fearing for the safety of her family, Ms. Fatoye stated that she then asked her husband to abandon the cases that could be the source of those threats. Her husband reportedly refused to do so, describing the threats as unfounded.

[6] On July 31, 2017, Ms. Fatoye and her husband allegedly received a third threatening letter. It contained a photograph of a coffin and claimed that if they reported the situation to the police, the whole family would be killed. This third letter also mentioned the name of the school attended by their adopted daughter. Following this event, Ms. Fatoye and her daughter allegedly fled to Kogi State in Nigeria to hide.

[7] However, in early October 2017, Ms. Fatoye's whereabouts were apparently traced since a photo of an axe and a piece of red cloth were allegedly left at her door. She stated that, at that time, she returned to Ekiti State to report the threats to the police. Ms. Fatoye reported that upon her return to Ekiti State, a hostile climate prevailed there: uniformed agents overran the streets, there were fires, houses were destroyed, cars were damaged and people fled for their lives. Before the RPD, Ms. Fatoye testified that at that time, a person wearing a uniform grabbed her. Then she allegedly woke up in the bushes after losing consciousness, not knowing what had

happened. However, in support of her refugee claim, she alleged rather that she was sexually assaulted by persons disguised as police officers and that, subsequently, naked photos of her were sent to her husband. Money was also demanded from her husband in exchange for not publishing these compromising photographs. During these same events, Ms. Fatoye was also allegedly robbed, and once again she found a piece of red cloth in her bag. She stated that she fled again, this time to Ondo State.

[8] On October 10, 2017, Ms. Fatoye allegedly left her daughter with her sister in Oyo State and fled to Lagos on October 13, 2017. Ms. Fatoye then went to the United States and entered Canada on October 14, 2017, to claim refugee protection here.

[9] Since arriving in Canada, Ms. Fatoye alleges that her daughter was followed in Nigeria by an unknown man, but that she defended herself. As for her husband, he reportedly left his law practice, has to constantly change residences to hide and was attacked in Port Harcourt in December 2017. Furthermore, in March 2018, her husband's brother was allegedly murdered in the husband's car, where a letter was also found containing threats against the family.

**B. *RPD decision***

[10] By its Decision, the RPD rejected Ms. Fatoye's claim, finding that the evidence on the record was not credible and that it contained fraudulent documents.

[11] To assess Ms. Fatoye's credibility, the RPD confirmed that it had considered section D of the guidelines relating to *Women Refugee Claimants Fearing Gender-Related Persecution*. As a result, the RPD qualified Ms. Fatoye's explanation for the late disclosure of her alleged sexual assault as reasonable. On this point, the RPD explained that Ms. Fatoye's testimony was clear: her attackers were not police or state officials, but simply people dressed up in uniform.

[12] On the whole, however, the RPD found that Ms. Fatoye's testimony lacked credibility.

[13] First, Ms. Fatoye testified that she received threats for the first time in July 2017, when she received a first letter, as indicated in her form in support of her refugee claim. However, the RPD noted that in April 2019, Ms. Fatoye had filed an amended version of this form where she referred to a police report indicating that her husband had instead reported that he and his family had been receiving threats since January 2017. When confronted with this contradiction by the RPD, Ms. Fatoye replied that she had focused on her own story, not knowing that her husband had himself received threats as early as January 2017.

[14] In the declaration under oath of Ms. Fatoye's husband, the RPD noted that he explained not having warned his wife so as not to frighten her. However, the RPD noted that in the same statement, he explained that he and his wife had received other threats in July 2017. In addition, the RPD indicated that, in the form in support of Ms. Fatoye's claim, Ms. Fatoye explained that her husband instead characterized these threats as false and unfounded. However, the declaration under oath of Ms. Fatoye's husband did not indicate that he was not taking these threats seriously or that he would have led his wife to believe that they were not serious.

[15] The RPD also noted that Ms. Fatoye had submitted two magazine articles from different sources, which discussed threats received by her husband in Nigeria because of his law practice. However, the RPD was unable to confirm the existence of these magazines on the Internet. They also did not appear in the National Documentation Package for Nigeria. The RPD did not attribute any probative value to these articles since Ms. Fatoye was unable to demonstrate that they were independent publications and not publications under her influence or that of her husband.

[16] In addition, in his police complaint and in his affidavit, Ms. Fatoye's husband stated that he had been involved in human rights cases. These cases are said to have made headlines, notably in the newspapers *Nation*, *Vanguard* and *Punch*. The RPD noted that the National Documentation Package for Nigeria recognized the existence of these newspapers by referring to them on a few occasions. The RPD added that the statements of Ms. Fatoye's husband were precise as to the existence of these articles, their dates and their content and, in particular, explained that other colleagues involved in the same cases had also been attacked, kidnapped or murdered. However, the RPD was dissatisfied with Ms. Fatoye's response as to why these newspaper articles had not been produced in evidence. In this regard, Ms. Fatoye simply replied that, given her husband's unstable situation, it was difficult for her to obtain these items. The RPD found this explanation to be inadequate since Ms. Fatoye managed to communicate with her husband on a daily basis.

[17] In addition, the RPD explained that, in support of her claim, Ms. Fatoye listed six threatening letters, but that only two photocopies of these letters were sent to the RPD before the

hearing. At the hearing, Ms. Fatoye filed the six original letters, but one of them contained material differences with one of the photocopies previously filed. Ms. Fatoye was unable to explain the difference between the content of the photocopy and that of the original document, which undermined her credibility and the authenticity of the six letters filed in evidence. On this point, the RPD concluded that Ms. Fatoye had submitted fraudulent evidence in support of her refugee claim.

[18] Ms. Fatoye also filed police reports, the originals of which differed from the photocopies filed before the hearing. When confronted with this situation by the RPD, Ms. Fatoye replied that liquid had been spilled on one of the copies of the document in question and that another copy had therefore been sent to her. However, the RPD noted that the location of a signature and the word order of one piece of information contained in the document differed from copy to copy. Once again, the RPD rejected this evidence, calling it fraudulent.

[19] Before the RPD, Ms. Fatoye also filed a copy of her marriage certificate as well as a document establishing that her husband did indeed practise law. In this regard, the RPD had no doubt that Ms. Fatoye's husband was a lawyer. However, the RPD questioned the authenticity of the document from the Nigerian Bar Association, which attested that Ms. Fatoye's husband had ceased to practise law after receiving threats. The RPD expressed the view that there was nothing in the evidence to establish that the author of this document had independent knowledge of the alleged facts. Since the credibility of Ms. Fatoye's husband had already been shaken due to his involvement in the filing of fraudulent evidence, the RPD concluded that the letter from the Nigeria Bar Association had no probative value. For the same reason, the RPD did not attach any

probative value to an affidavit in which Ms. Fatoye's husband related the events surrounding the murder of his brother, or to the photograph used to corroborate this testimony. The RPD similarly held that the death certificate of Ms. Fatoye's brother-in-law did not establish the cause of his death. In addition, the RPD drew similar conclusions regarding a photograph showing Ms. Fatoye's husband injured following an assault. According to the RPD, there was nothing to establish the reasons for his injuries. Finally, the RPD rejected the coroner's report used to document the death of Ms. Fatoye's brother-in-law, since it contained the same police stamp as another document previously found to be fraudulent. In support of its conclusion, the RPD observed that the National Documentation Package for Nigeria reported that fraudulent documents imitating official documents were common in that country.

[20] The RPD then turned to section 107.1 of the IRPA and concluded that Ms. Fatoye's claim was clearly fraudulent and manifestly unfounded. In support of this conclusion, the RPD first referred to the fact that, based on its analysis of all of the evidence, Ms. Fatoye was not a credible witness. The RPD then stated that Ms. Fatoye had submitted fraudulent documents in support of her claim, including one of the threatening letters and the police report, the photocopies of which did not match the originals. In both cases, they were documents relating to central elements of Ms. Fatoye's refugee protection claim.

### **C. *Standard of review***

[21] In accordance with *Minister of Citizenship and Immigration v Vavilov*, 2019 SCC 65 [Vavilov], the new framework for the analysis of standards of review is now based on a

presumption that reasonableness is the applicable standard in all cases (*Vavilov* at para 16). This presumption can only be rebutted in two types of situations. The first is where the legislature has prescribed a standard of review or where it has provided for an appeal from the administrative decision to a court; the second is where the question on review falls into one of the categories of questions that the rule of law requires to be reviewed on a standard of correctness (*Vavilov* at paras 10, 17; *Canada Post Corp. v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post Corporation*] at para 27). This will be the case with questions of a constitutional nature, general questions of law of central importance to the legal system as a whole and questions related to the jurisdictional boundaries between two or more administrative bodies (*Vavilov* at paras 17, 53). None of these situations for departing from the presumption of the reasonableness review apply here. The RPD's Decision is therefore reviewable on a standard of reasonableness. The parties do not challenge this.

[22] 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” (*Vavilov* at para 85; *Canada Post Corporation* at para 2, 31). The reviewing court must consider “the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified” (*Vavilov* at para 15). The reviewing court must therefore ask itself “whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility—and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision” (*Vavilov* at para 99, citing *Dunsmuir v New*

*Brunswick*, 2008 SCC 9 [*Dunsmuir*] at paras 47, 74, and *Catalyst Paper Corp. v North Cowichan (District)*, 2012 SCC 2 at para 13).

[23] It is not enough for the outcome of a decision to be justifiable. Where reasons for a decision are required, the decision “must also be justified, by way of those reasons, by the [administrative] decision maker to those to whom the decision applies” (*Vavilov* at para 86). Thus, a review according to the reasonableness standard is concerned with both the outcome of the decision and the reasoning process followed (*Vavilov* at para 87). I note that this view is part of the instruction from *Dunsmuir* to the effect that judicial review involves both the outcome and the process (*Dunsmuir* at paras 27, 47–49). That said, the reviewing court must focus its attention on the very decision made by the administrative decision maker, in particular on its justification, and not on the conclusion which the court would have reached itself had it been in the shoes of the decision maker.

[24] Review according to the reasonableness standard must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with “respectful attention”, and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene only “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13). It is important to remember that a reasonableness review always finds its starting point in the principle of judicial restraint and must demonstrate respect for the distinct

role conferred on administrative decision makers (*Vavilov* at paras 13, 75). The presumption that the reasonableness standard of review applies is based on “respect for the legislature’s institutional design choice, according to which the authority to make a decision is vested in an administrative decision maker rather than in a court” (*Vavilov* at para 46). In other words, according to the majority of the Supreme Court, *Vavilov* does not sound the death knell for deference to administrative decision makers.

### **III. Analysis**

[25] Ms. Fatoye claims that the RPD’s findings as to her credibility and the manifestly unfounded nature of her claim contain reviewable errors and are unreasonable. I do not share this opinion. In *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 [*Lawani*], I summarized the principles governing how an administrative decision maker like the RPD should assess the credibility of refugee claimants (*Lawani* at paras 20–26). Applying these principles, I conclude that in all respects, the RPD Decision is reasonable. In the case of Ms. Fatoye, the shortcomings in the evidence submitted and the accumulation of contradictions and inconsistencies regarding crucial elements of her refugee claim amply support the unfavourable conclusion drawn by the RPD regarding her credibility (*Lawani* at para 21). I would add that the adverse credibility findings did not arise from minor contradictions which were secondary or peripheral to her refugee protection claim, but rather went to the very heart of the account she gave, namely repeated threats apparently received by her and her husband.

[26] Following the *Vavilov* decision, the reasons given by administrative decision makers are of greater importance and appear as the starting point for the analysis. They are the primary mechanism by which administrative decision makers demonstrate that their decisions are reasonable, both to the affected parties and to the reviewing courts (*Vavilov* at para 81). They serve to “explain how and why a decision was made”, to demonstrate that “the decision was made in a fair and lawful manner” and to shield against “the perception of arbitrariness in the exercise of public power” (*Vavilov* at para 79). In short, these are the reasons that establish the justification for the decision.

[27] However, in the case of Ms. Fatoye, I am of the view that the RPD’s reasons justify its conclusions with transparency and intelligibility (*Vavilov* at para 81, 136; *Canada Post Corporation* at paras 28–29; *Dunsmuir* at para 48). They demonstrate that the RPD followed rational, coherent and logical reasoning in its analysis and that the Decision conforms to the relevant legal and factual constraints that bear on the RPD decision, and to the question of credibility and the fraudulent nature of the Ms. Fatoye’s claim (*Canada Post Corporation* at para 30, citing *Vavilov* at paras 105–7). At the end of the day, the errors alleged by Ms. Fatoye do not lead me “to lose confidence in the outcome reached by the decision maker” (*Vavilov* at para 123).

#### **A. *Credibility findings***

[28] First, Ms. Fatoye alleges that the RPD’s findings as to her lack of credibility were unreasonable. She first claims that, concerning the threatening letters, the evidence clearly

establishes that her husband began receiving threats in January 2017 but did not warn her.

Relying on *Gorqaj v Canada (Citizenship and Immigration)*, 2012 FC 920, Ms. Fatoye claimed that the RPD's conclusion accusing her of not having indicated that the threats began in January 2017 were unreasonable, since it involved a microscopic analysis of her credibility.

[29] Regarding the absence of newspaper articles recognized by the national documentation binder for Nigeria, Ms. Fatoye also submits that the conclusions of the RPD were unreasonable. Quoting *Sitnikova v Canada (Citizenship and Immigration)*, 2016 FC 464 and *Feng v Canada (Citizenship and Immigration)*, 2019 FC 18, Ms. Fatoye argues that the RPD could not blame her for this lack of evidence since her credibility was not questioned in a reasonable and sufficient manner. Ms. Fatoye also adds that the articles rejected by the RPD on the grounds that the magazines concerned were not in the national documentation package and were inaccessible online could on the contrary be easily found on the internet.

[30] Finally, Ms. Fatoye submits that the RPD had no reasonable grounds to reject all of her threatening letters and the police reports because of the difference observed between the originals and the photocopies of some of them (*Olanrewaju c Canada (Immigration, Refugees and Citizenship)*, 2018 FC 679; *Hohol c Canada (Citizenship and Immigration)*, 2017 FC 870). She also alleges that the RPD erred in rejecting her husband's sworn statement, which nevertheless corroborated her fears, and in questioning the credibility of documents such as the death report, the police reports and the newspaper articles which confirmed the threats she asserted. Citing *Yahia v Canada (Citizenship and Immigration)*, 2019 FC 84, Ms. Fatoye maintains that the RPD had a duty to deal with evidence that contradicts its general conclusions.

[31] I am not persuaded by Ms. Fatoye's arguments.

[32] As the Minister correctly points out, the numerous contradictions in the evidence presented by Ms. Fatoye, as well as the insufficiency of that evidence, could reasonably allow the RPD to make an adverse credibility finding (*Bushati v Canada (Citizenship and Immigration)*, 2018 FC 803 at para 33).

[33] Regarding the threatening letters, the Decision eloquently highlights the contradictions between the characterization of the threats and the dates asserted by Ms. Fatoye and her husband. It was reasonable for the RPD to draw negative inferences about Ms. Fatoye's credibility in light of the repeated contradictions arising from the fact that her husband considered both threats to be baseless but did not want to frighten his wife by revealing to her that he had received such threats. Concerning the newspaper articles that Ms. Fatoye stated she was unable to obtain, the reasons clearly illustrate that the RPD considered that her efforts to recover them were insufficient. It was Ms. Fatoye's responsibility to provide the necessary evidence to support the essential allegations on which her refugee protection claim is based, and she failed to do so. In the circumstances, there is nothing unreasonable in giving no probative value to those documents.

[34] Furthermore, I am of the opinion that the RPD could reasonably refuse to give probative value to the threatening letters and the police reports presented by Ms. Fatoye, having noted material differences in some of them between the original and the copy, and doubting their

authenticity. These were, I stress, documents which Ms. Fatoye herself had advanced in support of her refugee claim, and which were found to be fraudulent.

[35] In her submissions, Ms. Fatoye relied extensively on *Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302 (FCA) [*Maldonado*] and on the presumption of truthful testimony from which refugee claimants should benefit. However, I do not share Ms. Fatoye's reading of this decision and the scope she seems to want to give it. The *Maldonado* judgment does not gild the testimonies of refugee claimants with an irrebuttable presumption of truthfulness or place them above all suspicion. On the contrary, the *Maldonado* decision simply establishes the principle that, "[w]hen a [claimant] swears to the truth of certain allegations, this creates a presumption that those allegations are true unless there be reason to doubt their truthfulness" (emphasis added) (*Maldonado* at para 5). This reservation is important because it means that the presumption is extinguished when reasons emerge to doubt the truth of the allegations made in the context of a refugee protection claim. If doubts have arisen as to the credibility of certain aspects of the evidence adduced by a refugee protection claimant, the presumption of truthfulness falls. Likewise, when a claimant applicant is unable to explain in a reasonable manner why evidence that could corroborate the allegations in question is not provided, the presumption also does not hold (*Canadian Association of Lawyers) Refugee Location v Canada (Citizenship and Immigration)*, 2019 FC 1126 at para 184).

[36] The underlying reason for the presumption of truthfulness set out in *Maldonado* is that it cannot reasonably be expected that claimants who have experienced certain types of emergencies will always have documents or other material available to them or other evidence to support their

claims. These circumstances may include, but are not limited to, refugee camps, situations in war-torn countries, cases of discrimination and situations in which refugee claimants have only a very short time to escape their persecutors and cannot, subsequently, access documents or other evidence from Canada.

[37] However, in cases where a refugee protection claimant has had the opportunity to collect evidence supporting their claim before or after arriving in Canada, the strength of the presumption of truthfulness may depend directly on the extent to which corroborative evidence is provided. In other words, where there is any reason to doubt the truthfulness of the allegations made in the affidavit or the sworn testimony of a refugee protection claimant, a negative inference may be drawn with respect to credibility if the claimant fails to provide corroborative evidence that would reasonably be expected (*Ndjavera v Canada (Citizenship and Immigration)*, 2013 FC 452 at para 7). Similarly, when corroborative evidence should reasonably be available to establish the essential elements of a refugee protection claim and there is no reasonable explanation for its absence, the administrative decision maker may draw a negative inference with respect to credibility based on the claimant's lack of effort to obtain this evidence (*Ismaili v Canada (Citizenship and Immigration)*, 2014 FC 84 at paras 33, 35).

[38] I note that the burden is on the claimants to prove all elements of a claim (*Morales Esquivel v Canada (Citizenship and Immigration)*, 2009 FC 468 at para 16). In the case of Ms. Fatoye, the RPD raised numerous questions as to the credibility of certain aspects of the evidence adduced and the absence of documents reasonably expected, which undermined her credibility and contributed to rebutting the presumption of truthfulness of her testimony.

[39] I am also not satisfied that the RPD's analysis was "microscopic" or that it focused on minor differences or inconsistencies. An analysis does not become microscopic or overzealous because it is exhaustive. I note that the decisions for which administrative decision makers were accused of having carried out "microscopic" examinations reflected situations in which questions irrelevant or peripheral to the refugee protection claim had been accepted by decision makers (*Attakora v Canada (Minister of Employment and Immigration)* (1989), 99 NR 168 (FCA) at para 9; *Cooper v Canada (Citizenship and Immigration)*, 2012 FC 118 at para 4). In this case, the RPD's review did not in any way address matters irrelevant or peripheral to Ms. Fatoye's allegations of persecution. On the contrary, the factors and elements that underlie the RPD's motives related to specific incidents that were at the very heart of the narrative put forward by Ms. Fatoye.

[40] The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at 97, *Canada Post Corporation* at para 31). I add that the reasons for a decision need not be perfect or even exhaustive. They need only be comprehensible and justified. The reasonableness standard of review is not concerned with the decision's degree of perfection but rather its reasonableness (*Vavilov* at para 91; *Bhatia v Canada (Citizenship and Immigration)*, 2017 FC 1000 at para 29). The standard requires that the reviewing court start with the decision and recognize that the administrative decision maker's first responsibility is to make factual determinations. The reviewing court examines the reasons, the record and the outcome and, if there is a logical and coherent explanation for the result obtained, it refrains from intervening. In the case of Ms. Fatoye, I am satisfied that the

explanations in the Decision make it easy to understand why the RPD concluded that Ms. Fatoye lacked credibility. The Court need not intervene.

[41] I would add that an adverse credibility finding is different from a finding of insufficient evidence or of insufficient probative value (*Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 [*Lv*] at para 40; *Huang v Canada (Citizenship and Immigration)*, 2018 FC 940 at para 41). In Ms. Fatoye's case, the RPD concluded that some items of evidence were not credible while others could not be given any probative value. A credibility assessment is tied to the reliability of the evidence. When evidence is found not to be credible, it is a determination that the source of the evidence (for example, an applicant's testimony) is not reliable. Reliability of the evidence is one thing, but the evidence must also have sufficient probative value to meet the applicable standard of proof (generally the balance of probabilities). A sufficiency assessment goes to the nature and quality of the evidence needed to be brought forward by an applicant in order to obtain relief, to its probative value, and to the weight to be given to the evidence by the trier of fact, be it a court or an administrative decision maker. The law of evidence operates on a binary system in which only two possibilities exist: a fact either happened or it did not. If the trier of fact is left in doubt, the doubt is resolved by the rule that one party carries the burden of proof and must ensure that there is sufficient evidence of the existence or non-existence of the fact to satisfy the applicable standard of proof. (*Lv* at para 41).

[42] In the end, the arguments put forward by Ms. Fatoye simply express her disagreement with the RPD's assessment of the evidence and in fact invite the Court to prefer her opinion and her breakdown of the evidence over the analysis made by the RPD. This is not the reviewing

court's role on judicial review. The RPD provided detailed and well-considered reasons explaining why Ms. Fatoye was not found to be credible and why the evidence advanced was insufficient and did not deserve probative value. Reading the RPD Decision holistically, in conjunction with the record, satisfies me that the RPD conducted a thorough and detailed assessment of the evidence and that its conclusions reflect a rational and consistent analysis (*Vavilov* at paras 103–4).

**B. *Manifestly unfounded nature of claim***

[43] Ms. Fatoye further submits that the RPD erred in concluding that her refugee protection claim was devoid of a credible basis, which, in turn, prevented her from appealing the decision to the Refugee Appeal Division. Ms. Fatoye alleged that a simple negative credibility finding is insufficient to conclude that a claim is manifestly unfounded and that, in deciding as it did, the RPD disregarded the high threshold to be crossed in determining that a claim is manifestly unfounded (*Yuan v Canada (Citizenship and Immigration)*, 2018 FC 755 at para 45).

[44] I disagree with Ms. Fatoye. In fact, in my opinion, Ms. Fatoye is reading a truncated version of the Decision and is turning a blind eye to what the RPD's reasons expressly say about the manifestly unfounded nature of her claim.

[45] Ms. Fatoye is correct in saying that mere negative credibility findings are insufficient to meet the requirements of section 107.1 of the IRPA, and that it is rather the claim itself that must be fraudulent. In this regard, she aptly cites *Warsame v Canada (Citizenship and Immigration)*,

2016 FC 596 [*Warsame*], where the Court explains “a claim cannot be fraudulent if the dishonesty is not material concerning the determination of the claim” (*Warsame* at para 30).

[46] However, the RPD’s Decision in no way falls under the same banner as the one attributed to it by Ms. Fatoye. On the contrary, in the five paragraphs it devoted to the manifestly unfounded nature of Ms. Fatoye’s claim, the RPD explained what the terms “manifestly unfounded” used in section 107.1 mean; it mentioned having concluded that Ms. Fatoye lacked credibility and then set out to demonstrate how Ms. Fatoye submitted fraudulent documents (namely threatening letters and the police report) which dealt with aspects that constitute the very essence of her refugee protection claim. The RPD then concluded that Ms. Fatoye intentionally attempted to deceive the RPD regarding documentary evidence crucial to her claim, and it is for this reason that the RPD ultimately characterized Ms. Fatoye’s claim as clearly fraudulent and manifestly unfounded.

[47] In doing so, the reasoning and analysis of the RPD fully embraced the jurisprudential requirements for characterizing a claim as manifestly unfounded under section 107.1 of the IRPA. In *Warsame*, Justice Roy explained that the RPD must first be of the opinion that the refugee protection claim is clearly fraudulent (*Warsame* at para 23). After concluding this, the RPD “must then state that the refugee claim is manifestly unfounded and give its reasons for it” (*Warsame* at para 23). To this end, the RPD must have evidence showing that the claim is clearly fraudulent (*Warsame* at para 24). In addition, the deceit or falsehood must have a material effect concerning the determination of the claim (*Warsame* at para 30). In other words, for a refugee protection claim to be considered clearly fraudulent, it would in my view signal the requirement

“that the decision maker has the firm conviction that refugee protection is sought through fraudulent means, such as falsehoods or dishonest conduct that go to the determination of whether or not refugee protection will be granted” (*Warsame* at para 31). In *Warsame*, the Court determined that it was reasonable for the RPD to find that the refugee protection claim was manifestly unfounded since it was based on false statements touching on matters at the heart of the claim, including the identity of the claimant (*Warsame* at para 26).

[48] This is exactly the same type of analysis that the RPD did in the case of Ms. Fatoye. Contrary to what may have occurred in *Yuan v Canada (Citizenship and Immigration)*, 2018 FC 755, the RPD Decision contains sufficient details and justifications to demonstrate how Ms. Fatoye’s claim was fraudulent, and by extension manifestly unfounded. There is no doubt, on a full reading of the reasons, that Ms. Fatoye’s claim was not found to be manifestly unfounded solely on the basis of the negative credibility findings.

[49] A judicial review is not a “line-by-line treasure hunt for error”, and a reviewing court must instead approach the reasons and outcome of a tribunal’s decision as an organic whole (*Vavilov* at para 102; *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54; *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53). In the Decision, the RPD mentions several elements that led it to its conclusion on section 107.1 of the IRPA, and it is in light of all of the reasons that the reasonableness of its conclusion must be assessed.

[50] Following *Vavilov*, the reasons given by administrative decision makers are of greater importance and constitute the starting point for the analysis. They are the primary mechanism by which administrative decision makers demonstrate that their decisions are reasonable, both to the affected parties and to the reviewing courts (*Vavilov* at para 81). They serve to “explain how and why a decision was made” and demonstrate that “the decision was made in a fair and lawful manner”, and to shield against “the perception of arbitrariness in the exercise of public power” (*Vavilov* at para 79). In short, it is the reasons that establish the justification for the decision.

[51] In the case of Ms. Fatoye, the RPD’s reasons justify the Decision in a transparent and intelligible manner with regard to the manifestly unfounded nature of the claim (*Vavilov* at paras 81, 136; *Canada Post Corporation* at paras 28–29; *Dunsmuir* at para 48). They demonstrate that the RPD followed rational, coherent and logical reasoning in its analysis and that the Decision conforms to the relevant legal and factual constraints that bear on the decision maker and the issue at hand (*Canada Post Corporation* at para 30, citing *Vavilov* at paras 105–7).

[52] The purpose of a reasonableness review is to understand the basis on which the decision is made and to identify whether it contains a sufficiently critical or material deficiency or reveals an unreasonable analysis (*Vavilov* at paras 96–97, 101). The party contesting the decision must convince the reviewing court that “the shortcomings or flaws [raised] . . . are sufficiently central or significant to render the decision unreasonable” (*Vavilov* at para 100). In the present case, I am satisfied that the RPD’s reasoning can be followed without encountering any fatal flaws in its overarching logic, and that the reasons contain a line of analysis that could reasonably lead the

administrative decision maker, from the evidence before it, to the conclusion at which it arrived (*Vavilov* at para 102; *Canada Post Corporation* at para 31). The Decision does not suffer from a serious shortcoming which would hamper the analysis and which would be likely to undermine the requirements of justification, intelligibility and transparency.

#### **IV. Conclusion**

[53] For the reasons above, Ms. Fatoye's application for judicial review is dismissed. I find nothing irrational in the decision-making process followed by the RPD and in its conclusions. I instead find that the RPD's analysis of Ms. Fatoye's lack of credibility has the required attributes of transparency, justifiability and intelligibility and is not tainted by any reviewable error. I come to the same conclusion with regard to the manifestly unfounded nature of her claim. According to the reasonableness standard, it is sufficient for the Decision to be based on an inherently coherent and rational analysis and to be justified, having regard to the legal and factual constraints to which the decision maker is subject. That is the case here.

[54] No question of general importance was proposed for certification, and I agree that none arises.

**JUDGMENT in IMM-3984-19**

**THIS COURT'S JUDGMENT** is as follows:

1. The application for judicial review is dismissed, without costs.
2. No question of general importance is certified.

“Denis Gascon”

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Judge

Certified true translation  
This 27th day of April 2020.

Michael Palles, Reviser

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3984-19

**STYLE OF CAUSE:** ADEBUSOLA OLUFUNMILOLA FATOYE v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** FEBRUARY 26, 2020

**JUDGMENT AND REASONS:** GASCON J.

**DATED:** MARCH 31, 2020

**APPEARANCES:**

Stéphanie Valois FOR THE APPLICANT

Chantal Chatmajian FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Stéphanie Valois FOR THE APPLICANT  
Montréal, Quebec

Chantal Chatmajian FOR THE RESPONDENT  
Attorney General of Canada  
Montréal, Quebec