

Federal Court



Cour fédérale

**Date: 20210706**

**Docket: IMM-5190-20**

**Citation: 2021 FC 711**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, July 6, 2021**

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

**BETWEEN:**

**ANGELO GILBERT MANZI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a decision dated August 28, 2020, by the Refugee Appeal Division (RAD), in which the RAD upheld the rejection of the applicant's claim for refugee protection as he is neither a Convention refugee nor a person in need of protection under the *Immigration and Refugee Protection Act*, SC 2001, c 27, sections 96 and 97(1) [IRPA].

[2] The applicant is a citizen of Rwanda and is seeking refugee status for fear of and threats from authorities forcing him to perjure himself and fabricate evidence to incriminate a couple of hotel owners, of which the husband is no longer living. The applicant left the country in June 2016 accompanied by a smuggler, passing through Uganda. He arrived in Canada using a passport that did not belong to him and bearing a fake name.

[3] The Refugee Protection Division (RPD) rejected the claim for refugee protection on the basis that the applicant failed to establish his identity and lacked credibility with respect to his claim, given his inconsistent testimony and implausible allegations. The RPD confirmed that decision, focusing on his identity.

[4] This judicial review involves the RAD's independent analysis and the reasonableness of its findings. 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).

[5] The applicant submits that the new evidence, a letter from a civil status officer, should have been admitted as it explains the error in the birth certificate. He also argues that the RAD did not conduct an independent analysis of the evidence, erred in determining that the applicant failed to establish his identity and should have proceeded with the analysis in regard to his fear.

[6] *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96 at paras 34-35 [*Singh*], clearly states that subsection 110(4) allows for the admissibility of new evidence only in limited

circumstances and without discretion on the part of the RAD: either the evidence arose after the rejection of the claim for refugee protection, the evidence was not reasonably available, or it was but the person could not reasonably have been expected in the circumstances to have presented the evidence at the time of the rejection. The criteria set out in the case law on admissibility are also applicable (*Singh*, above, at para 49).

[7] The evidence in question is a letter dated January 25, 2019, indicating that an error had been made by a civil status officer at the time of signing the true copy of the applicant's original birth certificate. The RAD concluded that the letter was not admissible as it had not been provided with the appeal record on March 7, 2019, in accordance with regulatory requirements. Nor did it have any probative value, given that it had not been followed by the new version of the birth certificate. Finally, the purpose of the letter was to correct an error identified by the RPD.

[8] Indeed, the objective of subsection 110(4) of the IRPA is not to provide the opportunity to complete a deficient record, but to allow for errors of fact, errors in law or mixed errors of fact and law to be corrected (*Singh*, above, at para 54). Notwithstanding the foregoing, the letter is not determinative of the application.

[9] It is well established that when the panel is satisfied that "one or more of an applicant's identity documents have been fraudulently obtained or are otherwise inauthentic, the presumption that the applicant's remaining identity documents are valid can no longer be maintained. This is because the foundation for that presumption has been eroded" (*Teweldebrhan v Canada (Citizenship and Immigration)*, 2015 FC 418 at para 16).

[10] As is clear from the record, the RAD concluded that the applicant failed to establish his identity on a balance of probabilities. Considering that this is determinative, it did not proceed with the analysis in regard to his fear.

[11] While the RAD's reasons are brief, they are intelligible and reasonable. The identity of a refugee claimant is paramount and can be determinative of the claim (see IRPA, section 106; *Bah v Canada (Citizenship and Immigration)*, 2016 FC 373 at para 7; *Elmi v Canada (Citizenship and Immigration)*, 2008 FC 773 at para 4). The Court is also satisfied that the RAD conducted an independent analysis of the record, in applying the correctness standard, in order to come to its own determination, including reading the transcript of the hearing before the RPD, as well as the documentary evidence.

[12] For all these reasons, the Court dismisses the application for judicial review.

**JUDGMENT in IMM-5190-20**

**THIS COURT ORDERS AND ADJUDGES that** the application for judicial review is dismissed.

“Michel M.J. Shore”

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Judge

Certified true translation  
Francie Gow, Reviser

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

**DOCKET:** IMM-5190-20

**STYLE OF CAUSE:** ANGELO GILBERT MANZI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MATTER HEARD BY VIDEOCONFERENCE

**DATE OF HEARING:** JUNE 29, 2021

**JUDGMENT AND REASONS:** SHORE J.

**DATED:** JULY 6, 2021

**APPEARANCES:**

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