

Federal Court



Cour fédérale

Date: 20220406

Docket: IMM-2852-21

Citation: 2022 FC 490

Ottawa, Ontario, April 6, 2022

PRESENT: The Honourable Mr. Justice Pamel

BETWEEN:

YOUCEF SILINE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Background and underlying decisions

[1] The applicant, Youcef Siline, is a 34-year-old citizen of Algeria from Oum Bouaghi, in the northeast of the country, who claims fear of persecution from his family, friends and the people of Algeria for having converted to Christianity. Born of Chaoui ethnicity and part of the Berber ethnic group, Mr. Siline claims that his interest in Christianity began when he entered a church for the first time and felt tremendous inner peace. Although he could not remember the

name of the church, he claims to have secretly attended a Christian church in the city of Annaba, about 120 kilometres from his region, once a month starting in 2014 and until he was forced to reveal his secret to his family and community in either 2016 or 2017 (there is contradictory testimony regarding the dates) when he was being pressured to marry; he claims that he had actually converted to Christianity in June 2016 (possibly 2015) with the assistance of Spanish missionaries and had secretly attended Catholic church. With his secret out, Mr. Siline claims to have been forced to travel to Bordj Bou Arreridj, about 197 kilometers from the capital Algiers, to work in the construction industry and hide from his family, however, his family tracked him down and threatened him with violence if he did not renounce Christianity; he says that he relied on the Kabyle people (and possibly Christian priests – again not clear from his contradictory testimony) to move him from location to location until they helped him to leave the country.

[2] Mr. Siline arrived in Canada on March 6, 2018, on the strength of a visitor visa. Upon arrival at the airport, the Canada Border Services Agency officer [CBSA officer] found that his reasons for visiting Canada were vague: Mr. Siline stated that he wanted to come to Canada for 10 days simply to visit the country, the forests and monuments. He showed the CBSA officer a copy of a hotel reservation, which was found to be invalid upon verification with the hotel. Mr. Siline declared having neither friends nor family in Canada, and his luggage contained his diploma as a cabinetmaker; he says that he always traveled with his diploma. When asked multiple times by the CBSA officer if he feared returning to Algeria, whether he wanted to claim refugee protection, and whether he planned to work in Canada, Mr. Siline continuously answered in the negative. The CBSA officer determined that Mr. Siline was a non-genuine visitor; he was released and ordered to return the next day for further questioning. Mr. Siline failed to return,

and a warrant for his arrest was issued on March 7, 2018; he was arrested when he eventually presented himself at one of the immigration centers in Montreal to claim refugee protection. During his interview with the CBSA officer, Mr. Siline mentioned that it was the Kabyle people who hid him after his family tracked him down in Algiers and who helped him obtain a visa for Canada. When asked why he chose to convert to Catholicism, he said because of the music, the dancing and the signing. When asked what the sacred book of Christians is, he said that he did not know because it was in English but that he did know that they danced and sung. He says that he was not aware of any Catholic churches in Algiers and did not attend church while he was in the capital city before leaving for Canada. He says that he lied to the CBSA officer at the airport when he mentioned that he was married with children; in fact, he is single but was afraid that he would be sent back to Algeria.

[3] Mr. Siline seeks judicial review of the decision of the Refugee Appeal Division [RAD] dated April 6, 2021, which confirmed the earlier decision of the Refugee Protection Division [RPD] dated February 12, 2020, rejecting his claim on the grounds that he failed to establish on a balance of probabilities the central element of his claim of having converted to Christianity. The RPD determined that Mr. Siline's testimony regarding his conversion to Christianity in 2015 was simply not credible – his testimony was replete with contradictions without satisfactory explanations and was vague and spotty on key elements regarding his purported conversion to Christianity, and he had very limited knowledge of the teachings of the faith or what Christians do at church. The paucity of details regarding his own purported baptisms were remarkable, and concerns regarding his knowledge of the most basic tenets of Christianity caused the RPD to draw a negative inference as regards Mr. Siline's credibility. Finally, the RPD found that

Mr. Siline's failure to provide a reasonable explanation for not mentioning his fear of returning to Algeria or his intention to seek refugee protection to the CBSA officer when he first arrived in Canada on March 6, 2018, also went to undermine his overall credibility.

[4] Before the RAD, Mr. Siline attempted to submit new evidence but it was rejected as it did not meet the requirements of subsection 110(4) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act]; the RAD also refused Mr. Siline's request to hold an oral hearing pursuant to subsection 110(6) of the Act. No issue was made before me in respect of the RAD's decision on these two issues.

[5] On the merits, the RAD agreed with the RPD's findings. First, the RAD found that Mr. Siline did not establish, on a balance of probabilities, that he converted to Catholicism in Algeria; Mr. Siline's contradictions in respect of the date of his baptism undermined his credibility on a central element of his application. The RAD also found that the RPD did not err by examining Mr. Siline's underlying interest in converting to Christianity and by seeking to assess the extent of his knowledge of the fundamental tenets of the religion. The RAD agreed that Mr. Siline's testimony regarding the reasons and circumstances surrounding his conversion to Christianity was vague and imprecise. In addition, the RAD found that Mr. Siline did not establish, on a balance of probabilities, that he actually practised Christianity while he was in Canada. The RAD agreed with the RPD that Mr. Siline's ignorance of the teachings of Christianity undermined his credibility regarding his assertion that he attended two churches after his arrival in Canada. Finally, the RAD agreed with the RPD that Mr. Siline's failure to

claim refugee protection at the first opportunity when he spoke to a CBSA officer indicates the absence of a genuine subjective fear.

II. Issue and standard of review

[6] The sole issue in the application for judicial review is whether the RAD's decision is reasonable. Regarding the standard of review, I agree with the parties that the applicable standard is one of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17 [*Vavilov*]; *Bouarif v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 49 at para 9 [*Bouarif*]). Reasonableness is concerned with the existence of justification, transparency and intelligibility in the reasoning process of the decision maker (*Vavilov* at para 99; *Gao v Canada (Citizenship and Immigration)*, 2021 FC 490 at para 13).

III. Analysis

A. *The RAD did not misconstrue Mr. Siline's testimony regarding his conversion to Christianity*

[7] Mr. Siline argues that his testimony before the RPD in relation to his conversion to Christianity was not, objectively speaking, vague or deficient; by "objectively speaking", Mr. Siline means that there could be no reasonable interpretation of the record that would lead one to the conclusion that there was a deficiency. Mr. Siline concedes that it is often difficult for a court on judicial review to interfere with findings of vagueness and insufficiency of evidence as such would require the court to reweigh the evidence, something courts on judicial review should avoid (*Vavilov* at para 125), however, Mr. Siline points to the decisions of this Court in *Arunasalam v Canada (Minister of Citizenship and Immigration)*, 2003 FC 885 at paragraphs 8

and 10, *Ahmad v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 648 at paragraph 34 and *Kamau v Canada (Citizenship and Immigration)*, 2016 FC 413 at paragraph 61, for the proposition that this Court has in the past challenged a decision maker's claim of vagueness in the evidence. I accept that it is always open to this Court to review testimony and determine for itself whether a finding of vagueness on a particular issue was reasonable, however, in this case, Mr. Siline has failed to show me where such findings on the part of both the RPD and the RAD were unreasonable.

[8] Mr. Siline claims that he gave reasonable details as to why he converted to Christianity, that it was unreasonable for the RAD to expect him to remember websites or the names of the Christian movies that he claims to have seen, and that he gave reasonable details as to how he met the Spanish missionaries who converted him and how he was baptized. He argues that it was not reasonable for the RAD to conclude that he could not identify the Bible as the holy book for Catholics (Mr. Siline testified before the RPD that the books the missionaries were using were in Spanish), that he did not know what Christmas was (he initially stated that it represented a celebration for the end of the year and only later added that it also represented the birth of Christ), or that he gave two different dates for his conversion to Christianity (Mr. Siline says that he simply conflated the date of his conversion and baptism with the date on which he told his parents of his conversion). Nor, says Mr. Siline, was he vague regarding his attendance at church after arriving in Canada, providing a reasonable amount of detail on the liturgy, or regarding his switch to the Protestant evangelical movement in Canada, providing a reasonably detailed description of the differences, in particular that it was more welcoming and that the hours were more convenient for attending the services. Nor was he vague, he asserts, as regards his baptism

at the evangelical church in Canada, giving basic details regarding water and making the distinction between sprinkling with water and immersion in water and explaining the duties of baptism.

[9] Mr. Siline says that the RAD was expecting more details on his knowledge of Christianity, which is an unreasonable subjective expectation. I cannot agree and must admit that having reviewed the matter myself, I certainly understand why the RAD found as it did. In short, I see nothing unreasonable with the RAD's finding that Mr. Siline's answers were tremendously basic and vague for someone who claims to have found Christ and felt strong enough to sincerely convert to Christianity. It is not that anything Mr. Siline said during his testimony was wrong, but simply that it lacked the specificity and detail that one would reasonably expect from someone who legitimately and sincerely changes faith. I am not persuaded that the RAD held Mr. Siline to an unreasonably high standard of religious knowledge to demonstrate the sincerity of his faith. This Court has held that an applicant claiming persecution because of his or her religious beliefs must be able to establish basic knowledge relating to this religious belief (*Bouarif* at para 10). In this case, the RAD reasonably assessed Mr. Siline's knowledge in an effort to gauge the genuineness of his beliefs. This Court should afford deference to the RPD's appreciation of Mr. Siline's testimony. As Justice Gleason stated in *Hou v Canada (Citizenship and Immigration)*, 2012 FC 993 at paragraph 55:

Indeed, in all cases – and especially in cases like the present where the applicant's credibility is found to be wanting – the Court should not be too hasty to substitute its opinion for that of the RPD, which has developed expertise regarding the dictates of a number of religions. As Justice Near noted in *Wang* (cited above at para 8), assessing the genuineness of the claimant's religious beliefs is a difficult task and "this challenging job has been delegated to the Board as the finder of fact and this Court cannot,

on judicial review, decide to, in effect, reweigh the results of what can look like a round of Bible trivia” (at para 18). In my view, in [*Wang v Canada (Citizenship and Immigration)*, 2011 FC 614] at para 20, Justice Near set out the proper approach to be adopted by this Court in assessing the reasonableness of the RPD’s assessment of the genuineness of a claimant’s religious beliefs. After reviewing an awkward set of questions the Board had posed regarding what Jesus was like, he stated:

... this line of questioning illustrates the difficulty of the assessment the Board is required to make. It does not represent an error for which the Board’s decision should be over-turned. Absent a showing of disregard for the evidence, or a misapprehension of the facts, I am unwilling to disturb the Board’s conclusion in this regard – again deference is warranted. The Board did not make the determination of the genuineness of the Applicant’s faith based solely on the Applicant’s inability to attribute some human characteristics to Jesus. Answers to other questions regarding the Pentecostal faith were vague and lacking in detail. As the Respondent submits, testimony lacking in detail that would reasonably be expected of a person in the claimant’s position is a basis for rejecting claims as non-credible even if the Applicant was able to answer some other questions, and with great detail.

[Emphasis added. See also *Bouarif* at para 11.]

[10] Mr. Siline claims that the RAD misunderstood his evidence regarding the date of his baptism and submits that when taken as a whole, his testimony was clearly to the effect that he was baptized in 2015 (not 2016), but that he only announced his conversion to his parents in 2016 (not 2017) when he was being pressed to marry. In my view, the RAD did not err in its comprehension of Mr. Siline’s testimony. Putting aside that Mr. Siline’s Basis of Claim, which incidentally was consistent with the answers that he provided to the CBSA on May 10, 2018, stated that he was first baptized in 2016, the RAD actually did understand that Mr. Siline

testified that he was actually baptized in 2015 but only publicly announced his conversion in 2016. Rather, the issue was simply that the RAD did not accept his explanation for the contradiction. To add to the confusion, Mr. Siline's written submissions to the RAD also state that he officially converted to Christianity in June 2016.

B. *The RAD did not fail to properly assess the supporting documents and materials presented by Mr. Siline*

[11] Mr. Siline claims that after he arrived in Canada, he began attending the Emmanuel Church and was baptized into the evangelical Protestant church on December 31, 2019; he submits that the RAD erred in its assessment of the photographs that he provided of himself attending the Emmanuel Church at Christmas and at least two other events. According to Mr. Siline, the photographs corroborate his assertion that he is today a practising Protestant and suggest that the RAD made veiled credibility findings by seemingly suggesting that the photographs were staged. I do not agree that the RAD made a veiled credibility finding regarding the photographs. On the issue, the RAD stated:

[TRANSLATION]

[68] The appellant submitted a number of photographs of him in a church. When he appears on the stage or in front of seats, he is alone. In one photograph, a Christmas tree is visible. In another photograph, people are seen singing on a stage behind him. These photographs show him in a church, alone or with other people. They corroborate that the appellant entered a hall at Christmas time. If I look at the logo on one of the photographs, it seems to be that of the Emmanuel Church. However, these photographs do not corroborate that the appellant practises the faith of that church or that he was baptized on December 31, 2019.

[12] There was no veiled credibility finding. The RAD stated simply that the photographs may well show that Mr. Siline attended the church but did not support his assertion that he practised Christianity or that he was baptized in 2019. Mr. Siline says that the RAD failed to grasp their value as potentially corroborative of his religion. I disagree. The RAD understood the value of the photographs and refused to extrapolate beyond what the photographs showed. It was not for the RAD to look at the photographs and enquire further as to what they really meant. The photographs showed what they showed, and I see nothing unreasonable with the RAD attributing nothing more to the photographs than that they evidenced that Mr. Siline was actually in the church. The RAD also found that the authenticity of the baptismal certificate and attestation from the Emmanuel Church were questionable – spelling errors and poor French syntax in an official church document were difficult for the RAD to accept – however, noted that such errors were insufficient to conclude that the documents were not reliable. However, the RAD found that the baptismal certificate and attestation were insufficient to compensate for the serious credibility issues that arose from Mr. Siline’s evidence regarding his conversion to Christianity. I have not been persuaded that such a determination was unreasonable.

[13] Under the circumstances, I see no reason to interfere with the RAD’s finding and would dismiss the application for judicial review.

JUDGMENT in IMM-2852-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question to certify.

“Peter G. Pamel”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2852-21

STYLE OF CAUSE: YUCEF SILINE v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: JANUARY 26, 2022

JUDGMENT AND REASONS: PAMEL J.

DATED: APRIL 6, 2022

APPEARANCES:

Pia Zambelli FOR THE APPLICANT

Guillaume Bigaouette FOR THE RESPONDENT

SOLICITORS OF RECORD:

Joseph W. Allen & Assoc. FOR THE APPLICANT
Montreal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montreal, Quebec