

Federal Court



Cour fédérale

Date: 20220815

Docket: IMM-8290-21

Citation: 2022 FC 1198

[ENGLISH TRANSLATION]

Ottawa, Ontario, August 15, 2022

PRESENT: The Honourable Madam Justice Rochester

BETWEEN:

DJIBRIL CISSE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Background

[1] The applicant, Djibril Cisse, is a citizen of the Republic of Guinea. He is seeking judicial review of a decision of the Refugee Appeal Division [RAD] dated October 25, 2021, rejecting his claim for refugee protection [the decision]. The RAD rejected the applicant's refugee protection claim on the basis of adverse credibility findings and concluded that the applicant is

neither a Convention refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] In this application for judicial review, the applicant submits that the RAD committed the following reviewable errors: (i) the RAD erred in rejecting the evidence presented, including the arrest warrant and the letter from the school principal; (ii) the RAD erred in not accepting the applicant's explanations for certain contradictions regarding the May 28, 2019, demonstration; and (iii) the RAD's conclusions regarding the contradictions arising from the letter from the applicant's brother and the letter from the Union des Forces Démocratiques de Guinée are unreasonable.

[3] For the reasons that follow, the application for judicial review is dismissed.

II. Standard of review

[4] Having reviewed the record, I agree with the parties that the issues the applicant has raised are reviewable on a standard of reasonableness.

[5] To be reasonable, a decision must be 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). The burden is on the applicant, the party challenging the decision, to show that the RAD decision is unreasonable (*Vavilov* at para 100). For the reviewing court to intervene, the challenging party must satisfy the court that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of

justification, intelligibility and transparency” and that the alleged shortcomings or flaws “must be more than merely superficial or peripheral to the merits of the decision” (*Vavilov* at para 100). Reasonableness review is not a “line-by-line treasure hunt for error”. The reviewing court must simply be satisfied that the decision maker’s reasoning “adds up” (*Vavilov* at paras 102, 104).

III. Analysis

[6] As stated by my colleagues Justices Fothergill, Ahmed and McHaffie, credibility determinations are part of the fact-finding process, and are afforded significant deference upon review (*Fageir v Canada (Citizenship and Immigration)*, 2021 FC 966 [*Fageir*] at para 29; *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 [*Tran*] at para 35; *Azenabor v Canada (Citizenship and Immigration)*, 2020 FC 1160 at para 6). Credibility determinations lie within “the heartland of the discretion of triers of fact [...] and cannot be overturned unless they are perverse, capricious or made without regard to the evidence” (*Fageir* at para 29; *Tran* at para 35; *Edmond v Canada (Citizenship and Immigration)*, 2017 FC 644 at para 22).

[7] The applicant’s credibility was the determinative issue for both the RPD and the RAD.

[8] The applicant submits that the RAD erred in its assessment of his credibility and that it conducted this assessment unreasonably. The applicant argues that [TRANSLATION] “the rejection of his evidence causes him irreparable harm”.

[9] The respondent submits that the RAD reasonably concluded that the numerous significant contradictions, omissions and inconsistencies in the applicant’s story meant that he was not

credible and that this justified the rejection of his refugee protection claim and the appeal. The respondent submits that the RAD did not reject the letters from the school principal and the applicant's brother, but simply gave them little weight.

[10] It is well established that, in the absence of exceptional circumstances, reviewing courts must refrain from "reweighing and reassessing the evidence considered by the decision maker" (*Vavilov* at para 125). In my opinion, the applicant is asking this Court to reweigh the evidence and come to a different conclusion. That is not the role of the Court on judicial review.

[11] The RAD considered the applicant's lack of credibility to be determinative. The applicant submits that the contradictions and omissions were minor, meaning that the RAD erred. Even though the elements may be insufficient when taken individually or in isolation, the accumulation of contradictions, inconsistencies and omissions regarding crucial elements of a refugee claim can support a negative conclusion about an applicant's credibility (*Sary v Canada (Citizenship and Immigration)*, 2016 FC 178 at para 19; *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 22). Based on the evidentiary record before the RAD, including the applicant's testimony, I find the RAD's assessment of the applicant's credibility to be reasonable.

[12] Finally, before this Court, the applicant has essentially reiterated the same arguments that he raised before the RAD. After reviewing the decision and the evidence, I find that the RAD's decision is reasonable and justified, and therefore there is no need to intervene.

IV. Conclusion

[13] For the above reasons, this application for judicial review is dismissed. The parties did not suggest any serious questions of general importance for certification, and I agree that none arise.

JUDGMENT in IMM-8920-21

THIS COURT'S JUDGMENT is as follows:

1. The applicant's application for judicial review is dismissed; and
2. There is no question to certify.

"Vanessa Rochester"

Judge

Certified true translation
Janna Balkwill

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8290-21

STYLE OF CAUSE: DJIBRIL CISSE v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: AUGUST 10, 2022

JUDGMENT AND REASONS: ROCHESTER J.

DATED: AUGUST 15, 2022

APPEARANCES:

Odette Desjardins

FOR THE APPLICANT

Marc Gauthier

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Odette Desjardins
Montréal, Quebec

FOR THE APPLICANT

Attorney General of Canada
Montréal, Quebec

FOR THE RESPONDENT