

Federal Court



Cour fédérale

Date: 20240614

Docket: IMM-4210-23

Citation: 2024 FC 915

Edmonton, Alberta, June 14, 2024

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

TIRUYE DESSIE MELESSE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Tiruye Dessie Melesse (the “Applicant”) seeks judicial review of the decision of an officer (the “Officer”), refusing her application for permanent residence as a member of the “Convention Refugees Abroad” or as a member of the “Humanitarian-protected Persons Abroad” classes, pursuant to sections 145 and 147, respectively, of the *Immigration and Refugee*

Protection Regulations, SOR/2002-227 (the “Regulations”). Credibility was the determinative issue.

[2] The Applicant is a citizen of Ethiopia. She received a “Refugee ID Card” from the government of Kenya on April 11, 2018.

[3] In her affidavit filed in support of this application for judicial review, the Applicant deposed that upon reading the decision of the Officer, she realized that the interpretation during her interview with the Officer was inadequate. She provided examples of alleged errors in the translation.

[4] Otherwise, the Applicant argues that the decision is unreasonable. She submits that the Officer unreasonably focused on immaterial discrepancies between the information provided in her application, including the “Schedule A Background / Declaration”.

[5] The Minister of Citizenship and Immigration (the “Respondent”) initially objected to the Applicant’s affidavit filed in support of her application for judicial review, on the grounds that it was not interpreted to her in accordance with Rule 80(2.1) of the *Federal Courts Rules*, SOR/98-106 (the “Rules”).

[6] The Applicant filed another copy of her affidavit on April 30, 2024, with a corrected jurat. The Respondent did not pursue his arguments about admissibility at the hearing but

submitted that the affidavit does not show that the interpretation gave rise to a breach of procedural fairness.

[7] The Respondent submits that the decision shows that the Officer reasonably considered the evidence presented and that there is no basis for judicial intervention.

[8] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339 (S.C.C.)

[9] The merits of the decision are reviewable on the standard of reasonableness, following the instructions in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[10] In considering reasonableness, the Court is to ask if the decision under review “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”; see *Vavilov, supra*, at paragraph 99.

[11] I agree with the submission of the Respondent about the evidence relating to the alleged defective translation. The alleged errors do not relate materially to the negative credibility findings made by the Officer and would not have affected the global credibility finding.

[12] The Applicant takes issue with several discrete issues addressed by the Officer, including her lack of knowledge of her partner's whereabouts and her inconsistent explanation of her parents' disappearance.

[13] The Applicant argues that each discrepancy in her evidence identified by the Officer is either an "illusory inconsistency", immaterial to her claim or resolved by other evidence.

[14] The Respondent submits that the Officer reasonably determined that the Applicant's narrative lacked credibility based on a cumulative assessment of several inconsistencies in her evidence.

[15] Although the Applicant raises several issues for argument, they all depend upon the Officer's credibility assessment. That assessment is entitled to much deference by a reviewing Court.

[16] Considering the evidence in the Certified Tribunal Record, including the Applicant's application for permanent residence, I am not persuaded that the negative credibility findings were unreasonable.

[17] The Applicant also submits that the Officer unreasonably failed to consider her status as a refugee, pursuant to such recognition by the government of Kenya. She argues that while the Officer was not bound by such recognition, he or she was required to explain the basis for

arriving at a different conclusion, relying on the decision in *Teweldbrhan v. Canada (Citizenship and Immigration)*, 2012 FC 371.

[18] I see no reviewable error arising from the Officer's treatment of the Applicant's recognition as a refugee by the Kenyan government and refer to the decision in *Abraham v. Canada (Citizenship and Immigration)*, 2020 FC 908.

[19] In that case, Justice Southcott found that the officer's credibility assessment explained why the refugee designation provided by a foreign government was not followed; *Abraham, supra* at paragraph 22. In my opinion, it is clear that the Officer's adverse credibility findings in this case were the basis for not recognizing the refugee status granted by the Kenyan government.

[20] In conclusion, there is no basis for judicial intervention and the application for judicial review will be dismissed. There is no question for certification.

JUDGMENT IN IMM-4210-23

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4210-23

STYLE OF CAUSE: TIRUYE DESSIE MELESSE v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 8, 2024

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 14, 2024

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