Federal Court Cour fédérale

Date: 20250106

Docket: IMM-990-24

Citation: 2025 FC 22

Ottawa, Ontario, January 6, 2025

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

MOHAMMAD MIZANUR RAHMAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. Rahman seeks to set aside a decision by the Refugee Appeal Division [RAD] dismissing his appeal of the Refugee Protection Division's [RPD] decision rejecting his claim for protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*Act*].

[2] The issues raised are whether the RAD breached procedural fairness in its credibility assessment of new evidence, whether it reasonably rejected the admission of new evidence, and whether it reasonably found viable Internal Flight Alternatives [IFAs] in Bangladesh.

II. Facts

[3] The Applicant, a citizen of Bangladesh, returned to Bangladesh in September 2020 after spending two decades abroad. He secured employment as a project manager with Metro Homes, a prominent developer in Dhaka. The Applicant oversaw apartment constructions and managed an orphanage near his home village of Timir Kati.

[4] On May 2, 2021, while inspecting a construction site in Dhaka, members of the Awami League, Bangladesh's dominant political party, confronted the Applicant. They demanded payment from Metro Homes on behalf of a city councillor. Following his manager's advice, the Applicant filed a police report but says he was prevented from naming the councillor because of his political connections. On May 17, 2021, several men, whom the Applicant recognized from the earlier confrontation, physically assaulted him. He was hospitalized for seven days. While recovering at home, the Applicant continued to receive phone calls from unknown numbers.

[5] In July 2021, the Applicant relocated with his family to Timir Kati, where he continued to manage the orphanage and engaged in social welfare activities. This brought him to the attention of a regional leader of the Purba Banglar Sarbahara Party [PBSP], a terrorist group outlawed in Bangladesh. The leader demanded extortion payments. Following a physical confrontation with PBSP members on August 7, 2021, the Applicant and his family fled to the city of Cox's Bazar.

[6] The threats escalated in January 2022. Metro Homes warned the Applicant that the councillor was sending people to their office to look for him. He received death threats by phone on January 4, followed by a threatening note from PBSP on January 5. After another threatening call on January 6, the Applicant fled with two of his children to Canada on January 12, 2022. His wife and youngest child remained in Bangladesh, because they could not secure Canadian visas.

[7] The Applicant initiated a refugee claim on May 9, 2022. The RPD hearing was held on June 23, 2023. On July 27, 2023, the Applicant's spouse was allegedly abducted and sexually assaulted by Awami League members. The RPD rejected the Applicant's claim on September 21, 2023, making no negative credibility findings, but finding viable IFAs in Chittagong and Sylhet.

[8] The Applicant appealed to the RAD on October 11, 2023, with "new" evidence in support of the appeal. This evidence included an arrest warrant dated October 11, 2023 and a Bangladesh police First Information Report [FIR] dated June 30, 2023, both obtained and submitted together by a lawyer in Bangladesh via a letter dated October 31, 2023; hospital records relating to the July 27, 2023 sexual assault on the Applicant's wife; an updated psychotherapy report; and various affidavits and letters from family and friends.

III. Decision Below

[9] The RAD conducted its own analysis of materials and dismissed the appeal as well as the request for an oral hearing. The RAD's reasons focused on the admissibility of the alleged "new" evidence and the viability of the proposed IFAs.

A. *Admissibility of New Evidence*

[10] The RAD found none of the evidence submitted by the Applicant admissible.

[11] The RAD determined that the updated psychotherapy report and the children's university attendance records, submitted post-RPD hearing, were irrelevant to the IFA analysis. It concluded that the psychotherapy report merely confirmed the completion of five therapy sessions, while the university records contained no information related to IFA conditions.

[12] For evidence predating the RPD decision, including letters, affidavits, the FIR, and hospital records relating to the wife's assault, the RAD concluded these failed to meet the statutory threshold for admission. It emphasized that the issue of IFA had been identified at the outset of the RPD hearing, and the Applicant, represented by counsel, had ample opportunity to present this evidence during that hearing.

[13] The RAD further found the October 11, 2023 arrest warrant inadmissible due to credibility concerns. It noted the warrant's "suspiciously convenient" timing, as it appeared only after the RPD rejected the Applicant's claim. The RAD observed that its procurement contradicted the IRB's National Documentation Package [NDP], which states that in Bangladesh, neither the accused nor their representative can obtain a copy of an arrest warrant. The warrant also referenced incorrect legislation and contained inconsistent wording, further undermining its credibility. The RAD additionally relied on the contextual information provided by the Applicant's RPD testimony, where he stated that after relocating to Timir Kati, no one sought him out, no police contacted him, and no criminal charges were brought against him.

B. *Viability of IFAs*

[14] The RAD determined that the RPD conducted the correct analysis and reached appropriate conclusions under both prongs of the IFA viability test.

[15] On the safety prong, the RAD found insufficient evidence of the alleged persecutors' ongoing interest and their ability to locate the Applicant nationwide. Regarding the councillor, the RAD first emphasized that his extortion demand targeted Metro Homes, not the Applicant personally. It noted that when the Applicant filed a police complaint, he identified "unknown militants" rather than the councillor specifically. These circumstances suggested that the conflict was primarily with the company, not the Applicant individually.

[16] The RAD also concluded that the councillor lacked both the willingness and means to pursue the Applicant. After relocating to Timir Kati, the Applicant was not located by the councillor, despite engaging in public activities such as operating an orphanage and performing social welfare work. Additionally, news articles indicated that the councillor was one of many councillors under government surveillance for illegal activities, with measures restricting their movement. The RAD determined that this demonstrated a lack of both motivation and capability to pursue the Applicant outside Dhaka.

[17] Concerning the PBSP, the RAD's analysis shows a group fractured by internal strife and weakened by external suppression. This finding was supported by the group's illegal status in Bangladesh, documented internal rivalries within its leadership, reports of regional leaders being killed by internal factions or police raids, and the lack of governmental connections or national

operational capacity. Moreover, the Applicant's successful relocation to Cox's Bazar unmolested by the PBSP further undermined claims of concrete threats from the group.

[18] On the reasonableness prong, the RAD concluded that the Applicant failed to establish conditions rendering relocation unreasonable or unduly harsh. It considered the Applicant's personal circumstances and found that his linguistic proficiency in the majority language and adherence to the majority religion of the proposed areas positioned him favourably for integration. Additionally, Sylhet and Chittagong, as major urban centers with populations of approximately one and five million respectively, offered sufficient infrastructure and economic opportunities. The record contained no evidence of specific barriers to securing employment or housing in these locations.

IV. Issues

[19] This application raises three issues for determination. First, whether the RAD breached procedural fairness by making adverse credibility findings about the arrest warrant without giving the Applicant notice or an opportunity to respond. Second, whether the RAD's refusal to admit new evidence was reasonable, specifically in light of its application of the relevant statutory and jurisprudential criteria. Third, whether the RAD reasonably concluded that viable IFAs exist in Sylhet and Chittagong.

V. Standards of Review

[20] The approach when reviewing procedural fairness resembles the correctness standard of review that asks "whether the procedure was fair having regard to all of the circumstances": *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*Canadian*

Pacific] at para 54; *Heiltsuk Horizon Maritime Services Ltd v Atlantic Towing Limited*, 2021 FCA 26 at para 107. The goal of the procedural fairness review should always be investigating "the ultimate question [of] whether the applicant knew the case to meet and had a full and fair chance to respond": *Canadian Pacific* at para 56.

[21] The approach when conducting a substantive review is reasonableness, as articulated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

[22] Reasonableness is a deferential, yet robust, standard of review: *Vavilov* at paras 12-13. The courts must give considerable deference to the decision-maker, recognizing its Parliamentary mandate, specialized expertise, and deeper understanding of the "purposes and practical realities of the relevant administrative regime" and "consequences and the operational impact of the decision" towards which reviewing courts may not be attentive: *Vavilov* at para 93. Absent exceptional circumstances, courts must not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker: *Vavilov* at para 125.

[23] For a decision to be unreasonable, the applicant must demonstrate that it contains sufficiently central or significant flaws: *Vavilov* at para 100. Not all errors or concerns justify intervention. Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep": *Vavilov* at para 100. That being said, reasonableness review is not a mere "rubber-stamping" process: *Vavilov* at para 13. The reviewing court's role is to assess whether the decision as a whole is reasonable; that is, whether it is one based on an

internally coherent and rational chain of analysis and justified in relation to the facts and law that constrain the decision-maker: *Vavilov* at para 85.

VI. Legal Framework

A. *Assessing Admissibility of New Evidence*

[24] The admission of new evidence before the RAD engages a two-stage test. The first stage requires satisfaction of the statutory threshold under subsection 110(4) of the Act, while the second stage demands assessment of four cumulative factors established in *Singh v. Canada (Citizenship and Immigration)*, 2014 FC 1022 [*Singh*] and *Raza v. Canada (Citizenship and Immigration)*, 2007 FCA 385 [*Raza*], collectively the *Raza-Singh* framework.

[25] In applying this test, the RAD must ensure that the appeal does not become an opportunity to address evidentiary deficiencies from the RPD hearing: *Abdullahi v Canada (Citizenship and Immigration)*, 2016 FC 260 at paras 13-15; *Arafa v Canada (Citizenship and Immigration)*, 2019 FC 6 at paras 42-43.

[26] For the first stage of the assessment, subsection 110(4) of the *Act* requires the following:

Evidence that may be presented	**Éléments de preuve admissibles**
110 (4) On appeal, the person who is the subject of the appeal may present only evidence that arose after the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances	**110 (4)** Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés,

to have presented, at the time of the rejection.	dans les circonstances, au moment du rejet.

[emphasis added]

[27] The RAD must first determine whether the new evidence: (1) arose after the rejection of the claim; (2) was not reasonably available; or (3) could not reasonably have been expected to be presented. This test is disjunctive, and thus meeting any one of the conditions suffices: *Olowolaiyemo v. Canada (Citizenship and Immigration)*, 2015 FC 895 at para 19. Conversely, to find evidence inadmissible, the RAD must explain how it fails to meet all three conditions.

[28] Where this threshold is met, the RAD must evaluate the probative value of the evidence using the framework established by this Court in *Singh*, which adapts the approach outlined by the Federal Court of Appeal in *Raza* at para 13. The *Raza-Singh* framework is constructed to reflect the RAD's quasi-judicial appellate role and requires a flexible, contextual approach to admissibility. In applying it, the RAD must cumulatively consider the following four evaluative factors.

[29] The first is credibility, which asks whether the evidence is credible based on its source and the circumstances of its creation. This analysis must account for:

1) The presumption of authenticity for state-issued documents: *Mabirizi v Canada (Citizenship and Immigration)*, 2021 FC 1354 [Mabirizi] at para 13;
2) The RAD's obligation to verify submitted evidence where means are available: *Downer v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 45 [*Downer*] at paras 61-63;

3) The need to consider related or corroborating evidence collectively: *Ramirez Chacin v Canada (Citizenship and Immigration)*, 2019 FC 223 at paras 27-29; and

4) Circumstances suggesting implausibility in the evidence's provenance or acquisition, which may arise from (a) suspicious temporal correlation between evidence emergence and negative RPD decision: *Jiang v Canada (Citizenship and Immigration)*, 2021 FC 572 at para 44; (b) documented impossibility of obtaining the evidence through claimed means: *Shakil Ali v Canada (Citizenship and Immigration)*, 2023 FC 156 at para 8; or (c) inconsistencies between evidence procurement method and established procedures: *Senadheerage v Canada (Citizenship and Immigration)*, 2020 FC 968 at para 16.

[30] The second is relevance, which inquires whether the evidence is capable of proving or disproving a fact related to an issue raised on appeal. This inquiry must be done with the consideration of the nature of relevance as a binary concept indicating whether evidence has any probative value by establishing a logical connection or nexus between the evidence and the issue to be assessed: *Magonza v. Canada (Citizenship and Immigration)*, 2019 FC 14 [*Magonza*] at paras 21-24.

[31] The third is newness, which investigates whether the evidence is capable of impacting the overall assessment through either establishing changes in circumstances post-dating the RPD decision, demonstrating previously unknown facts material to the claim, or contradicting specific factual findings of the RPD.

[32] The fourth is materiality, which scrutinizes whether the refugee claim would have likely succeeded if the evidence had been available to the RPD. This criterion requires assessment of the evidence's capacity to affect the ultimate determination of the claim.

B. *Evaluating Viability of IFAs*

[33] The test for establishing the viability of an IFA is two-pronged: *Rasaratnam v Canada (Minister of Employment and Immigration) (C.A.)*, 1991 CanLII 13517 (FCA) [*Rasaratnam*] at para 711; *Thirunavukkarasu v Canada (Minister of Employment and Immigration) (C.A.)*, 1993 CanLII 3011 (FCA) [*Thirunavukkarasu*] at para 597. Both prongs must be satisfied in order to make a finding that an applicant has an IFA.

[34] The first prong requires that one establish, on a balance of probabilities, that there is no serious possibility of the applicant being subject to persecution in the proposed IFA: *Rasaratnam* at para 710. In the context of section 97 of the Act, it must be established that the applicant would not be personally subjected to a section 97 danger or risk in the proposed IFA.

[35] The second prong requires that the conditions in the proposed IFA are such that it would not be unreasonable, upon consideration of all the circumstances, including the applicant's personal circumstances, for the applicant to seek refuge there: *Thirunavukkarasu* at paras 597-98.

[36] The burden of proof rests with the applicant to demonstrate that either prong of the test is not met on a balance of probabilities: *Thirunavukkarasu* at para 590; *Yafu v Canada (Citizenship and Immigration)*, 2014 FC 293 at para 8; *Ogunjinmi v Canada (Citizenship and Immigration)*, 2021 FC 109 at para 26.

VII. Analysis

A. *The RAD did not err in refusing to admit the new evidence*

(1) There was no breach of procedural fairness

[37] The Applicant's procedural fairness submissions centre on the RAD's credibility findings regarding the arrest warrant. The parties advance fundamentally different conceptions of when notice obligations arise in the context of credibility determinations.

[38] The Applicant advanced four sequential prepositions. First, the RPD made no adverse credibility findings, therefore credibility is not a live issue on appeal. Second, the RAD's credibility assessment of the arrest warrant constituted a "legally and factually distinct" issue from the grounds of appeal that therefore engages the requirement of notice established in *Ching v. Canada (Citizenship and Immigration)*, 2015 FC 725 [*Ching*] at paras 65-76. Third, the Applicant could not have known credibility was at issue until receiving the negative RAD decision. Fourth, this constituted a breach of procedural fairness by depriving the Applicant of the opportunity to address specific concerns regarding document procurement, references to relevant legislation, and wording comparisons.

[39] The Applicant relies on three authorities requiring notice where credibility issues emerge during appeal: *Nooristani v. Canada (Citizenship and Immigration)*, 2024 FC 99 [*Nooristani*]; *Lopez Santos v. Canada (Citizenship and Immigration)*, 2021 FC 1281 [*Lopez Santos*]; *Shoyebo v. Canada (Citizenship and Immigration)*, 2022 FC 1264 [*Shoyebo*].

[40] The Respondent advances a narrower conception of notice obligations in this context. The Respondent relies on established jurisprudence that explicitly exempts the RAD from

notification requirements regarding concerns with applicant-submitted documentation on admissibility assessments: *Lemma v. Canada (Citizenship and Immigration),* 2022 FC 770 at para 23. The Respondent argues that this position is reinforced by cases establishing key distinctions in procedural fairness obligations between the RAD's assessment of applicant-provided evidence versus extrinsic evidence: *Akanniolu v Canada (Citizenship and Immigration*), 2019 FC 311 at paras 45-47; *Moïse v Canada (Citizenship and Immigration),* 2019 FC 93 at paras 9-10. Ultimately, the Respondent says that the RAD's credibility assessment in the present case constitutes an inherent component of the *Raza-Singh* framework rather than an introduction of novel issues requiring procedural intervention.

[41] I reject the Applicant's submissions. The RAD did not raise a "new issue" as characterized by this Court's jurisprudence in *Ching* and the Supreme Court of Canada's [Supreme Court] guidance in *R v Mian,* 2014 SCC 54 [*Mian*]. In *Mian,* the Supreme Court instructed that a "new issue" on appeal is one that:

> [30] ...raises a new basis for potentially finding error in the decision under appeal beyond the grounds of appeal as framed by the parties. Genuinely new issues are legally and factually distinct from the grounds of appeal raised by the parties and cannot reasonably be said to stem from the issues as framed by the parties…
>
> [emphasis added and citations omitted]

[42] The Supreme Court further clarified that "issues that are rooted in or are components of an existing issue are also not 'new issues'": *Mian* at para 33.

[43] Here, the RAD's credibility assessment of the arrest warrant stems directly from its statutory obligations and the appeal record. The Applicant submitted the warrant as "new"

evidence challenging the RPD's IFA analysis, a core issue on appeal. This submission necessarily placed the warrant's credibility under the RAD's review, as both subsection 110(4) of the *Act* and the *Raza-Singh* framework require the RAD to assess the credibility of new evidence during the admissibility process. The RAD's evaluation of the warrant was therefore foreseeable and integral to the appeal process: *Homauoni v Canada (Citizenship and Immigration)*, 2021 FC 1403 at para 29. It did not raise any factually and legally distinct issues that would require additional notice to the Applicant.

[44] This stands in contrast to the cases relied upon by the Applicant, where the RAD introduced new issues or grounds of appeal on its own initiative:

1) In *Nooristani*, the RAD independently investigated discrepancies in the applicant's testimony and relied on its findings to form a new basis for finding the applicant ineligible as a refugee, which was not addressed by the RPD nor raised on appeal.
2) In *Shoyebo*, the RAD independently identified contradictions between the applicant's testimony and the relevant NDP. This new line of reasoning based on the NDP was neither addressed by the RPD nor raised in the appeal submissions.
3) In *Lopez Santos*, the RAD introduced previously unraised credibility issues related to discrepancies in the applicant's testimony about domestic violence. While the RPD discounted a police report on the matter, the RAD went further, identifying new inconsistencies in the applicant's narrative regarding the type of vehicle involved and the timing of the incident. These issues were not addressed by the RPD or raised on appeal.

[45] The Applicant's procedural fairness challenge fails. The RAD engaged in an assessment integral to the appeal process of the evidence submitted by the Applicant. It did not do an independent investigation of "new issues" that require providing notice to the Applicant.

(2) The refusal is reasonable

[46] The RAD's assessment of new evidence under subsection 110(4) of the Act must be reviewed for both statutory compliance and application of the *Raza-Singh* factors. Since the statutory criteria centres on the timing of the RPD decision, I find it logical to review the RAD's assessment by categorizing the evidence as either pre- or post-RPD decision.

(a) *Evidence predating the RPD decision*

[47] Two pieces of evidence predate the RPD decision: the hospital records and affidavit documenting the assault on the Applicant's wife, and letters from family members. The RAD's analysis appropriately applied the statutory inquiry asking whether the Applicant demonstrated either that these documents were "not reasonably available" or that he "could not reasonably have been expected" to present them before the September 21 decision.

[48] The IFA has been a central issue throughout the RPD proceedings. The RPD explicitly identified it during the June 23 hearing, with the Applicant's former counsel addressing the issue in closing submissions. Following this hearing, the Applicant had a three-month period to present further evidence to reinforce his case on IFAs before the RPD's September 21 decision. No such submissions were made, and the Applicant has advanced little justification for this omission on judicial review.

[49] The Applicant's submissions on the RAD's admissibility assessment of his wife's affidavit is an illustrative example. Despite the underlying incident occurring on July 27, 2023, the affidavit was not executed until October 31, 2023. Rather than explaining why the document was "not reasonably available" or that he "could not reasonably have been expected" to present it, the Applicant's submissions focus exclusively on alleged errors in the RAD's "newness" assessment under the *Raza-Singh* framework.

[50] Subsection 110(4) of the *Act* serves the statutory purpose of ensuring parties put their best case before the RPD to prevent wasting valuable decision-making resources: *Mohamed v Canada (Citizenship and Immigration)*, 2019 FC 1537 [*Mohamed*] at para 52. In light of this objective, the RAD's rejection of the pre-decision evidence was therefore justified, particularly given: (1) the Applicant's continuous legal representation throughout the RPD proceedings; (2) the three-month window available for submissions; and (3) the absence of a persuasive explanation for failing to present this evidence before the RPD decision, despite its availability.

(b) *Evidence postdating the RPD decision*

[51] Two groups of evidence came to the Applicant's attention after the RPD decision. The first consists of the arrest warrant, the FIR, and its associated explanatory letter. The second is the updated psychotherapy letter. For these post-decision items, the reasonableness of the RAD's rejection turns on its assessment of the evidence under the *Raza-Singh* framework.

(i) The Arrest Warrant, the FIR, and the Associated Explanatory Letter

[52] For this package of evidence, the Applicant, in both the written and oral submissions, focused on the credibility findings regarding the arrest warrant. The FIR and the explanatory

letter sent by the Bangladeshi lawyer were presented as supporting evidence to establish the warrant's authenticity. Accordingly, it is appropriate to center the analysis on the arrest warrant.

[53] Pointing to the presumption of authenticity for state-issued documents, the Applicant advances four objections to the RAD's decision to refuse admission of the arrest warrant based on questionable credibility. First, the RAD placed undue emphasis on technical discrepancies between the arrest warrant and NDP samples without giving sufficient weight to substantial similarities in layout and formatting. Second, the RAD neglected to make reasonable inquiries to verify authenticity of the arrest warrant, when jurisprudence imposes such an obligation. Third, the RAD improperly disregarded the lawyer's letter, which, according to the Applicant, provides key context on the procurement and authenticity of the arrest warrant and FIR. Fourth, the RAD made the erroneous finding of "suspiciously convenient" timing when the FIR demonstrates police interest predated the RPD decision. During oral submissions, the Applicant emphasized that while these flaws may not individually compel intervention, their cumulative effect renders the RAD's decision unreasonable.

[54] I am not persuaded that these arguments hold upon closer examination, independently or cumulatively. They either rely on application of easily distinguishable case law beyond its appropriate scope, or are effectively an invitation for this Court to reweigh and reassess the evidence.

[55] First, while the Applicant emphasizes the many visual similarities of his document with the NDP sample, the RAD properly focused on substantive textual deviations on the Applicant's warrant from the standard samples, particularly in section 2 and the bail provisions. These

variations from standardized language used across Bangladesh's judicial system can reasonably be interpreted as unauthorized alteration rather than simple formatting differences. The RAD's choice to prioritize content over visual format in its evaluation of substantive authenticity is one that is reasonable for it to make. Moreover, the warrant references to "*Criminal Court Rules*" rather than "*Code of Criminal Procedure*," which represents more than mere variations of or errors in nomenclature. The NDP explicitly establishes that arrest warrants in Bangladesh invariably cite the *Code of Criminal Procedure* as their enabling legislation for criminal matters, with no jurisdictional variations permitted.

[56] The Applicant's reliance on *Mabirizi* and *Moronfulu v Canada (Citizenship and Immigration)*, 2024 FC 488 [*Moronfulu*], to argue unreasonableness in the RAD's analysis of the content of the arrest warrant is misplaced. In *Mabirizi*, the adverse credibility finding rested solely on a single spelling error in a mass-produced document, while *Moronfulu* involved adverse credibility finding based on subjective and unsupported assumptions about document transmission timelines in a foreign country. Neither scenario is analogous to the RAD's evidence-based and objective analysis in this case.

[57] Second, the Applicant's claim that the RAD should have made inquiries for verification are not supported by case law. The Applicant relies on cases holding that the RAD should make inquiries to verify informal documents, such as personal letters containing the author's full contact information: *Paxi v. Canada (Citizenship and Immigration)*, 2016 FC 905 [*Paxi*]; *Downer*. However, there is a material distinction between informal correspondence amenable to direct verification and state-issued criminal process documentation requiring more complex international authentication. The arrest warrant in question is not a document with an issuer who

can be readily contacted via email or phone call to verify its authenticity. The Applicant has attempted to extend the principle of verifying informal documents with simple checks to the realm of complex cross-jurisdictional verification. While I fully agree with the jurisprudence in *Paxi* and *Downer*, the Applicant's interpretation stretches it to a point that is inconsistent with the "policy underlying subsection 110(4)… requir[ing] parties to put their best case forward before the RPD to prevent wasting valuable decision-making resources": *Mohamed* at para 52.

[58] Third, the procurement methodology described in the Bangladeshi lawyer's letter contradicts established procedures documented in the NDP. The NDP clearly states that arrest warrants remain exclusively with relevant police stations and cannot be obtained by accused persons or their representatives unless the accused has surrendered to the police. The lawyer's letter, contrary to the Applicant's claim, gave no special insight into how this document was obtained, despite the acknowledged difficulties faced even by legal professionals in Bangladesh in obtaining such warrants. In fact, it merely stated in one sentence that the lawyer was able to obtain the warrant through "personal networks." In my view, the RAD reasonably chose to rely on the established NDP evidence on institutional procedures rather than the lawyer's cursory explanatory letter.

[59] Fourth, the surrounding context to the arrest warrant and the FIR support the reasonableness conclusion that the arrest warrant is of a "suspiciously convenient" nature. While the FIR predates the RPD decision and may suggest earlier police interest, the procurement and submission of both the FIR and the arrest warrant—20 days after the Applicant began the appeal—reasonably undermines their credibility. It is open to the RAD to find that the timing suggests a coordinated effort to produce strategically advantageous evidence, which is further

compounded by the Bangladeshi lawyer's vague explanation of using "personal networks" to access documents that, according to the NDP, are generally inaccessible to accused persons or their representatives. Moreover, I find the Applicant's reliance on the FIR to demonstrate earlier police interest is unconvincing, as the FIR itself is newly submitted evidence with its credibility under review. The RAD's skepticism reasonably extends beyond the timing to encompass the questionable procurement process and the broader connection to other corroborative evidence of similarly dubious credibility. Hence, the RAD's characterization of the arrest warrant as "suspiciously convenient" falls within the range of reasonable conclusions.

[60] Examined collectively, these irregularities provide substantial grounds for questioning the authenticity of the arrest warrant and its associated documents. They also amount to the kind of concrete and objective evidence required to overcome the presumption of authenticity for state-issued documents. Judicial interference is therefore not warranted.

(ii) The Updated Psychotherapy Letter

[61] The Applicant submits that the RAD erred on its analysis of the relevance of the updated psychotherapy letter. To support his argument, the Applicant relies on the binary nature of relevance as explained in paragraph 23 of *Magonza*. Specifically, he contends that the RAD has misunderstood "the concept of relevance and the importance of mental health evidence when determining whether an IFA is viable."

[62] I disagree. The binary approach to relevance outlined in *Magonza* depends on whether the evidence has any probative value. According to the records, the Applicant had already submitted a comprehensive psychotherapy assessment to the RPD in June 2023 that detailed his

mental health conditions, including a diagnosis of depression and anxiety, and a recommendation for ten therapy sessions. The RAD determined that the updated report merely confirmed the completion of five of these sessions and did not offer any further probative insights into the Applicant's mental health or its implications for the reasonableness of an IFA. It was open for the RAD to conclude that a minor factual update lacked probative value and thus relevance to the IFA analysis.

[63] The Applicant's argument that the RAD incorrectly applied the law on relevance and admissibility and misunderstood the importance of mental health evidence is therefore unpersuasive. The RAD did not reject the report on the basis that mental health evidence is categorically irrelevant. Rather, it found that this specific report landed on the irrelevant side of the binary, as it failed to offer probative value for the IFA issue on appeal. This conclusion is reasonable and aligns with the evidentiary principles set out in *Magonza*.

B. *The RAD did not err in upholding the RPD's IFA analysis*

[64] I disagree with the Applicant that the RAD erred in its IFA analysis. Since the Applicant made limited substantive submissions on this judicial review regarding the PBSP's impact on the proposed IFAs, my reasons focus on the RAD's findings concerning the city councillor.

[65] On the safety prong, the RAD reasonably concluded that there was insufficient evidence to demonstrate that the councillor possessed either the motivation or the capability to pursue the Applicant in Chittagong or Sylhet. It was open to the RAD to determine that the evidence showed a lack of motivation. Notably, the threat underlying this case stemmed from an extortion demand targeting Metro Homes, the Applicant's employer, rather than the Applicant personally.

The specificity of this threat—the instruction to avoid accessing construction site pending payment by the company—reasonably led the RAD to conclude that the motivation was commercial, not personal.

[66] The RAD also reasonably relied on the historical pattern of non-pursuit to support its conclusion. The Applicant's successful and unimpeded relocation, first to Timir Kati and subsequently to Cox's Bazaar, suggests that the councillor lacked both motivation and capability for far-reaching persecution. The RAD gave particular weight to the Applicant's prolonged and highly visible presence in Timir Kati, where he operated an orphanage and engaged in public social welfare initiatives. This unmolested period of residence, despite the Applicant's social visibility, provided compelling evidence negating any sustained intent or operational ability to pursue him. The Applicant's submission that the Awami League's power and reach inherently conferred nationwide prosecutorial power on the councillor, solely by virtue of his position as one of thousands of city councillors, is speculative at best. The Applicant fails to provide concrete or specific evidence of influence within the League that would support such a claim.

[67] Moreover, I agree with the Respondent that the RAD reasonably found the councillor's documented position of being under institutional constraints further diminished his capacity to pursue the Applicant. The evidence established that the councillor has been under active government surveillance and criminal investigation for extortion, subject to explicit travel restrictions. These state-imposed constraints reasonably led the RAD to infer that his political influence and operational capacity were significantly curtailed. This context of institutionally restricted authority distinguishes the present circumstances from *Akinola v Canada (Citizenship and Immigration)*, 2019 FC 1308, where a retired but politically connected official without state

restrictions was found to have retained the necessary reach and influence to locate the applicant nationwide.

[68] While the Applicant presented various pieces of evidence alleging threats from the councillor as a politically backed official, the RAD reasonably found that these assertions were undermined by the lack of objective corroborating evidence. As emphasized in *Kassim v Canada (Citizenship and Immigration)*, 2018 FC 621 at para 22, subjective fears, no matter how genuinely held, cannot substitute for clear and objective evidence showing specific risks. The RAD is entitled to find that the Applicant's evidence failed to meet this evidentiary standard, and its conclusions were reasonable in light of the totality of the evidence.

[69] Turning to the second prong of the IFA, the Applicant's sole argument is that the RAD's conclusions overlook key mental health evidence. Specifically, the Applicant contends that the RAD overlooked the psychotherapist's report documenting his severe anxiety and depression as a result of the events in Bangladesh, as well as the potential impact of returning to Bangladesh on his psychological well-being. The Applicant relies on *Haastrup v Canada (Citizenship and Immigration)*, 2018 FC 711, which emphasizes that a decision-maker cannot disregard psychological evidence in assessing an applicant's ability to relocate and the reasonableness of an IFA. The Applicant says that the RAD's failure to explicitly engage with this evidence undermines the transparency and reasonableness of its decision.

[70] The problem with this submission is that the Applicant never raised the RPD's neglect of the psychological report on appeal to the RAD. The law is clear that the RAD is not required to provide explicit reasons for findings that were not challenged before it: *Akintola v Canada*

(Citizenship and Immigration), 2020 FC 971 at para 21. Requiring the RAD to address unraised issues would conflict with the purpose of Rule 3(3)(g) of the *Refugee Appeal Division Rules*, SOR/2012-257: *Dahal v Canada (Citizenship and Immigration)*, 2017 FC 1102 at para 37. Considering that the RAD explicitly stated that it has "independently reviewed the findings and agree with the RPD's reasoning and conclusions," there is no reason to depart from the well-established principle that "an administrative decision maker is presumed to have weighed and considered all the evidence before it": *Boulos v Canada (Public Service Alliance)*, 2012 FCA 193 at para 11; *Garcia Cuevas v Canada (Citizenship and Immigration)*, 2021 FC 1478 at para 28.

VIII. Conclusion

[71] In conclusion, I find the RAD's decision reasonable on its three primary conclusions. First, its credibility assessment of the Applicant's arrest warrant evidence was procedurally fair, as the assessment formed an inherent part of its statutory mandate and flowed directly from the Applicant's own submissions of "new" evidence challenging the RPD's IFA determination. Second, the RAD appropriately applied the statutory and jurisprudential framework in refusing admission of the pre- and post-RPD decision evidence submitted by the Applicant on appeal. Third, the RAD's IFA analysis reasonably addressed both the safety and reasonableness prongs of the test by distinguishing between the theoretical and actual reach of the alleged persecutor and concluding that the Applicant's personal circumstances did not present undue hardship for relocation.

[72] Neither party proposed a question for certification.

JUDGMENT in IMM-990-24

THIS COURT'S JUDGMENT is that this application is dismissed and no question is certified.

"Russel W. Zinn"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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