

Federal Court



Cour fédérale

Date: 20250627

Docket: IMM-9559-24

Citation: 2025 FC 1118

Ottawa, Ontario, June 27, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

ABDULAZIZ EBRAHIM YESUF

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of a decision (the “Decision”) by the Refugee Appeal Division (the “RAD”). The Decision overturned the Refugee Protection Division’s (the “RPD”) finding that the Applicant is a Convention refugee under section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the “Act”).

II. Background

[2] The Applicant, Abdulaziz Ebrahim Yesuf, came to Canada in 2015 on an Ethiopian passport and initiated a claim for refugee protection the same year. He asserts that he is an Eritrean citizen and fears persecution in Eritrea based on national service, and as an ethnic Tigrayan from the Muslim Jeberti clan. He also alleges a *sur place* claim, in fearing persecution by the Eritrean state for having fled the country illegally and claimed refugee protection.

[3] In the Decision, the RAD summarized the procedural history of the Applicant's application for refugee status as follows:

The [Applicant's] claim was first heard by the RPD (first RPD panel) in 2016. The RPD found the [Applicant] had not established his identity, rejected the claim based on credibility and found the claim to be manifestly unfounded. The Federal Court allowed an application for judicial review and referred the claim back to the RPD for redetermination before a different panel. The second RPD panel rejected the [Applicant's] claim finding he was an Ethiopian citizen rather than Eritrean. This decision was appealed to the Refugee Appeal Division (RAD) which allowed the appeal and referred the matter back to the RPD. The RAD found there was a breach of procedural fairness resulting from the unavailability of an audio recording for the last RPD hearing sitting date. The third RPD panel found the [Applicant] established his identity as an Eritrean citizen and in doing so had rebutted the presumption that he is an Ethiopian citizen.

[4] The Minister of Immigration, Refugees and Citizenship Canada (the "Minister") appealed the RPD's decision to the RAD.

III. The Decision

[5] On May 10, 2024, the RAD allowed the Minister's appeal and sent the matter back for redetermination by the RPD regarding his allegations against Ethiopia.

[6] The determinative issue on the appeal was the Applicant's identity. The RAD found that evidence did not establish the Applicant's identity as an Eritrean national, and instead established his identity as an Ethiopian national, on a balance of probabilities.

[7] The RAD reviewed the documents provided by the Applicant in detail and compared them to sample Eritrean documents, which included Eritrean National Identification Cards (national identification card) for the Applicant and his mother, a birth certificate, birth certificates for his brothers, school reports and a vaccination record. The RAD found that several of these documents were not genuine while others were insufficient to establish his Eritrean identity, on a balance of probabilities. The RAD also found the Applicant's supporting documents and testimony did not establish his identity as an Eritrean national, on a balance of probabilities, as none of the affiants or witnesses could provide support for the Applicant's citizenship other than affirming that he lived in Eritrea.

[8] Conversely, the Applicant's Ethiopian passport was found to be genuine and unaltered. The RAD stated that *a prima facie* presumption is held that a passport holder is a national of the country of issue and that the Applicant bears the burden of rebutting the presumption that he is a citizen of Ethiopia. While the Applicant did not dispute the authenticity of the passport, he

alleged that it was fraudulently obtained. He stated that he got the passport from a smuggler who only requested two photos and \$30,000. The RAD rejected this proposition because it did not find it credible that the Applicant was able to obtain a genuine passport without providing the necessary documents, including four coloured photos and fingerprints. Specifically, the RAD found that it was more likely than not that obtaining an official, genuine Ethiopian passport would require the Applicant to have photographs taken by Ethiopian officials.

[9] In failing to establish his identity as an Eritrean national, the Applicant had failed to rebut the presumption that he is an Ethiopian citizen, on a balance of probabilities. The appeal was allowed, and the RAD substituted its decision that he is a citizen of Ethiopia for that of the RPD. The Applicant's allegations against Ethiopia were sent back to a different RPD panel.

IV. Issues

[10] Was the Decision reasonable?

V. Analysis

[11] The applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 25).

[12] Proof of identity is commonly asserted as a “threshold issue” or “pre-requisite” in refugee claims (*Su v Canada (Citizenship and Immigration)*, 2012 FC 743 at para 3). As stated by the RAD, the onus to prove identity is placed on the claimant to provide acceptable documentation

to establish his identity on a balance of probabilities through section 106 of the Act and Rule 11 of the *Refugee Protection Division Rules*, SOR/2012-256. In the absence of corroborating identity documents, claimants must provide a reasonable explanation for their absence or demonstrate what reasonable steps were taken to obtain such documents.

[13] The Applicant asserts that the RAD erred in impugning the RPD's determination of the Applicant's Eritrean identity by unreasonably assessing evidence that corroborated the Applicant's identity. The Applicant relies on witness testimony and photographs to establish his Eritrean identity. He states that the RAD should have assessed the identity documents, testimonies, and affidavits independently, and erred by importing its findings on the identity documents to this other evidence (citing to *Mbang v Canada (Citizenship and Immigration)* 2019 FC 68 [*Mbang*] at para 26 and *Mohmadi v Canada (Citizenship and Immigration)*, 2012 FC 884 [*Mohmadi*] at para 19).

[14] The RAD did not err as asserted by the Applicant. The RAD reviewed and assessed the identity documents, testimonies, and affidavits independently and came to independent conclusions as to whether each document or witness testimony provided could prove the Applicant's nationality on a balance of probabilities.

[15] I agree with the Respondent that the cases of *Mbang* and *Mohamdi* do not assist the Applicant in this case.

[16] Unlike the case of *Mbang*, the RAD here did not reject the Applicant's witness' testimony outright, but simply found it was insufficient. The testimony of the two witnesses was that they *assumed* the Applicant was of Eritrean nationality but had no evidentiary basis to support that assumption. With respect to the affidavits, the RAD found that the Applicant's cousin did not swear to the nationality of the Applicant, but rather stated that her mother, who is the sister of the Applicant's mother, was of Eritrean descent, and saw the Applicant in Eritrea in 1998. With respect to the other letters and affidavits of support, I note that the letter from the Eritrean Canadian Jeberti Association confirming the Applicant's Eritrean nationality is not an affidavit, and as stated by the RAD, does not state how it confirmed the Applicant's nationality. Similarly, although his neighbour swore that "the claimant is an Eritrean citizen and a resident of Eritrea", he provided no information as to how he confirmed this statement. The RAD reasonably concluded that this evidence, which constituted bare statements of nationality, was insufficient to prove nationality, on a balance of probabilities.

[17] In *Mohamdi*, the issue was that the RAD gave little weight to a valid passport as proving the applicant's identity because there were discrepancies in other documents. That is not the case here, as the RAD has accepted the Ethiopian passport as genuine and valid, and the RAD did not find that the discrepancies in the documents affected the weight of this valid document. I also note that the RAD did not import problems with certain of the Applicant's documents into others, including the passport, but rather assessed them independently.

[18] Many of the Applicant's arguments are requests to re-weigh the evidence. This is not the role of this Court (*Vavilov* at para 125). The RAD's assessment and concerns raised regarding

the Applicant's birth certificates, his mother's national identity card, his school and vaccination records, and his identity card were reasonable. Furthermore, I disagree with the Applicant that the RAD raised a new issue concerning the Applicant's mother's national identity card, which was already part of the record before the RPD, and the Applicant was aware that his identity and supporting documents were at issue (*Onkoba v Canada (Citizenship and Immigration)*, 2023 FC 1184 at para 49). The RAD is entitled to assess the documentary evidence independently.

[19] The Applicant also asserts that the fact that his family was not deported from Eritrea to Ethiopia during the Eritrea-Ethiopia border war establishes that he is an Eritrean citizen. He submits that the RAD's analysis regarding the possibility of Ethiopian families living in Eritrea is not sustainable, as the expelling occurred from 1998 to 2022. However, the RAD addressed this proposition and found that there was "insufficient evidence on the record to determine whether this situation was applicable to the Respondent's family or how the family chose if it was applicable to them." This reasoning is supported by the Applicant's evidence. For example, the Applicant's cousin swore in her affidavit that her and her family fled Eritrea and returned to Ethiopia because of the instability in Eritrea, not because of her father's Ethiopian nationality and the expulsion of Ethiopian families from Eritrea, as asserted by the Applicant.

[20] While the Applicant asserts that the RAD erred by failing to adequately analyze country condition documents, he does not say how this was an error or point to any inconsistent conclusion made by the RAD. An administrative panel is presumed to have considered all the material before it, and this presumption can be rebutted by an "agency's failure to mention in its reasons some evidence before it that was relevant to the finding, and pointed to a different

conclusion from that reached by the agency” (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at para 15). The Decision demonstrates that the RAD did review and refer to portions of the National Documentation Package, specifically with respect to identity documents. The Applicant has not demonstrated that the RAD failed to refer to any specific part of the country condition documents and I do not find the RAD erred.

[21] Lastly, the Applicant did not contest the validity of the Ethiopian passport. The RAD correctly stated that a passport is *prima facie* evidence of citizenship (*Adar v Canada (Citizenship and Immigration)*, 1997 CanLII 16800 (FC)). The burden is on the claimant to rebut this presumption (*Abrha v Canada (Citizenship and Immigration)*, 2020 FC 226 at para 17). Considering this presumption and the insufficient evidence to prove otherwise, the RAD’s conclusion that the Applicant was of Ethiopian nationality, not Eritrean nationality, was reasonable.

[22] The Applicant has effectively asked the Court to reweigh the evidence reviewed in detail by the RAD. That is not the role of the Court (*Vavilov* at para 125).

[23] The Applicant has failed to identify any reviewable error in the RAD’s Decision. The Decision demonstrates an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained it.

VI. Conclusion

[24] This application is dismissed.

[25] There is no question for certification.

JUDGMENT in IMM-9559-24

THIS COURT'S JUDGMENT is that:

1. This application is dismissed.
2. There is no question for certification.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9559-24

STYLE OF CAUSE: ABDULAZIZ EBRAHIM YESUF v THE MINISTER OF
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