

Federal Court



Cour fédérale

**Date: 20250711**

**Docket: IMM-8225-24**

**Citation: 2025 FC 1235**

**Ottawa, Ontario, July 11, 2025**

**PRESENT: The Honourable Mr. Justice Fothergill**

**BETWEEN:**

**NADI GHEBREZGABIHER TEKLE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] Nadi Ghebrezgabiher Tekle is a citizen of Eritrea. He seeks judicial review of a decision by an officer [Officer] with Immigration, Refugees and Citizenship Canada. The Officer refused Mr. Tekle's application for a permanent resident visa as a member of the Convention Refugee Abroad Class or Country of Asylum Class.

[2] The Officer relied on extrinsic evidence without giving Mr. Tekle notice or an opportunity to respond, and the decision was therefore procedurally unfair. In addition, the Officer rejected some of Mr. Tekle's evidence as lacking in credibility, but did not specify what that evidence was. Nor did the Officer explain why the remaining evidence was insufficient to satisfy the requirements of the application. The Officer's decision was therefore unreasonable.

[3] The application for judicial review is allowed.

## II. Background

[4] Mr. Tekle claims that he was forced to perform national service in Eritrea on a government-owned farm in Barentu for two years, and on a private farm for some time thereafter. He describes his national service as tantamount to indefinite slave labour. He says that he managed to escape during a trip away from the farm to purchase spare parts. He crossed the border into Sudan on foot, and met his brother in Uganda several months later.

[5] Mr. Tekle was recognized as a refugee by the United Nations High Commissioner for Refugees. He applied for a Canadian permanent resident visa while in Uganda. On March 15, 2024, he attended an interview with the Officer and an interpreter.

[6] By letter dated April 25, 2024, the Officer refused Mr. Tekle's application for a permanent resident visa.

III. Decision under Review

[7] The Officer found that Mr. Tekle had not been truthful in his application, and his responses to interview questions did not allay the Officer's credibility concerns. Mr. Tekle's account of his escape from the farm lacked detail, and the Officer noted that his narrative was nearly identical to those presented in other applications. The Officer observed that Mr. Tekle's story was "essentially a template of other ones", and suggested that he may have been using a script.

[8] After removing the information that raised credibility concerns, the Officer found that the remaining evidence was insufficient to satisfy the requirements of the application.

IV. Issues

[9] This application for judicial review raises the following issues:

A. Was the Officer's decision procedurally fair?

B. Was the Officer's decision reasonable?

V. Analysis

[10] The Officer's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[11] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[12] Procedural fairness is subject to a reviewing exercise best reflected in the correctness standard, although strictly speaking no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). The ultimate question is whether an applicant had a full and fair chance to be heard (*Siffort v Canada (Citizenship and Immigration)*, 2020 FC 351 at para 18).

[13] Mr. Tekle challenges the Officer's decision on numerous grounds. Two of these are determinative.

A. *Was the Officer's decision procedurally fair?*

[14] Mr. Tekle says that the Officer improperly relied on extrinsic evidence without giving him notice or an opportunity to respond. According to the Officer's notes, which were prepared the day after the interview, Mr. Tekle's narrative was very similar to those presented by other applicants, including one who had been interviewed earlier that day:

Throughout the interview, the applicant provided statements which were inconsistent and lacked credibility. [...] I note that the applicant's narrative on his Schedule 2 is nearly identical to several other applications seen, including another case seen this day. This raises concerns that the applicant is using a script and that the story is not true. [...]

[15] Extrinsic evidence is evidence that the applicant is unaware of because it comes from an outside source (*Cheburashkina v Canada (Citizenship and Immigration)*, 2014 FC 847 at para 29; *Desalgn v Canada (Citizenship and Immigration)*, 2025 FC 704 at para 18). The Court has applied a variety of tests to determine whether evidence is truly extrinsic. Relevant considerations include whether the evidence was novel and significant, or sufficiently known or otherwise reasonably available to the applicants, and the possible impact of the evidence on the decision (*Joseph v Canada (Citizenship and Immigration)*, 2015 FC 904 at paras 38-39; *Bradshaw v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 632, at para 64; *Sylain-Pierre v Canada (Citizenship and Immigration)*, 2022 FC 404 at para 24).

[16] The particulars of the narratives the Officer considered to be nearly identical to the one presented by Mr. Tekle were neither specified nor disclosed to Mr. Tekle before the decision was made. These other narratives constituted extrinsic evidence and were central to the Officer's

adverse credibility findings. The narratives were not publicly available, and Mr. Tekle could not be expected to know their contents.

[17] Where extrinsic evidence forms the basis of an Officer's concern, an applicant must be given an opportunity to meaningfully respond to the concern and be given details of the evidence. It is not enough merely to advise an applicant of the general nature of the concern (*Shen v Canada (Citizenship and Immigration)*, 2024 FC 1997 at para 9; *Chawla v Canada (Citizenship and Immigration)*, 2014 FC 434 at para 14).

[18] Furthermore, the other narratives referred to by the Officer are absent from the certified tribunal record. Where a document is known to have been before the tribunal but is not before the Court, the Court is unable to determine the legality of the decision under review. The decision will be set aside if the missing document was central to the decision maker's findings (*Togtokh v Canada (Citizenship and Immigration)*, 2018 FC 581 at para 16 and cases cited therein; *Khramova v Canada (Citizenship and Immigration)*, 2025 FC 353 at paras 11-13).

[19] The Officer's decision was procedurally unfair.

B. *Was the Officer's decision reasonable?*

[20] Decision makers may rely on their common sense to make negative credibility findings based on unwarranted and striking similarities between the testimony or evidence of claimants. However, they must also use their common sense to determine whether, in the circumstances of

the case, there is a valid reason for the similarities (*Liu v Canada (Citizenship and Immigration)*, 2023 FC 765 at para 7; *Ravichandran v Canada (Citizenship and Immigration)*, 2015 FC 665 at para 19). Many Eritrean refugee claimants have been forced to perform national service, which in practice may be indefinite and akin to slavery (*Kiflom v Canada (Citizenship and Immigration)*, 2022 FC 246 at para 2).

[21] The Officer's reasons and notes merely state that Mr. Tekle's narrative was nearly identical to those presented in other applications. No examples were provided, and the nature of the similarities was not specified. The Court cannot determine which aspects of Mr. Tekle's narrative were rejected as lacking credibility, and which aspects were accepted as true.

[22] The Officer's reasons concluded as follows:

Having removed all the information with which there are credibility concerns from the assessment of your application, there remains insufficient evidence remaining with which to be satisfied that you are not inadmissible to Canada and that you meet the requirements of the Act as stated above.

[23] The Officer did not indicate what portions of Mr. Tekle's evidence were tainted by credibility concerns, or why the remaining evidence was insufficient to satisfy the requirements of the application. The Officer's reasons lacked the requisite degree of justification, intelligibility and transparency.

[24] It is not enough for the outcome of a decision to be *justifiable*. Where reasons for a decision are required, the decision must also be *justified*, by way of those reasons, by the decision maker to those to whom the decision applies (*Vavilov* at para 86).

[25] The Officer's decision was unreasonable.

## VI. Conclusion

[26] The application for judicial review is allowed, and the matter is remitted to a different immigration officer for redetermination. Neither party proposed that a question be certified for appeal.



**JUDGMENT**

**THIS COURT’S JUDGMENT is that** the application for judicial review is allowed,  
and the matter is remitted to a different immigration officer for redetermination.

“Simon Fothergill”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8225-24

**STYLE OF CAUSE:** NADI GHEBREZGABIHER TEKLE v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JUNE 2, 2025

**JUDGMENT AND REASONS:** FOTHERGILL J.

**DATED:** JULY 11, 2025

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