Federal Court Cour fédérale

Date: 20250808

Docket: IMM-16134-23

2025 FC 1358

Ottawa, Ontario, August 8, 2025

PRESENT: Justice Andrew D. Little

BETWEEN:

DAWIT ANDEBRAHAN TAFERE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a citizen of Eritrea. He applied for resettlement in Canada in the Convention refugee abroad class and the country of asylum class under sections 145 and 147 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the *"IRPR"*). His application included his spouse and children. They have been recognized as Convention refugees by the United Nations High Commissioner for Refugees in Ethiopia.

[2] The applicant met all of the relevant criteria in the regulations for resettlement in Canada, except for a determination of whether he was not inadmissible to Canada.

[3] A resettlement officer in Abu Dhabi, UAE, interviewed the applicant in Addis Ababa, Ethiopia on October 12, 2023, with the assistance of an interpreter. The officer entered notes of the interview into the Global Case Management System (*"GCMS"*).

[4] By decision letter dated December 14, 2023, the officer refused the application for resettlement. The letter referred to sections 11 and 16 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the *"IRPA"*). The letter referred to the obligation to be truthful. The letter concluded that the applicant had not provided sufficient clear information on which to assess whether the applicant met the requirements of the *IRPA*, specifically whether the applicant was not inadmissible to Canada. The requirement that the applicant be not inadmissible was in both section 11 of the *IRPA* and paragraph 139(1)(i) of the *IRPR*.

[5] The applicant asks the Court to set aside the officer's decision, on the basis that it was unreasonable under the principles in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 SCR 563, and because he was deprived of procedural fairness.

[6] For the following reasons, I agree with the applicant that the decision must be set aside because the officer's decision was unreasonable.

I. The Interview and the Decision

A. *Interview of the applicant*

[7] The GCMS contained the officer's detailed notes of the interview with the applicant on October 12, 2023, including notes of questions and answers.

[8] The GCMS notes included several important facts and exchanges between the applicant and the officer, including:

- The applicant was required to do national service and had military training. During his training, the applicant escaped and was later captured and detained.
- The applicant told the officer he was assigned to work in administration. The officer asked about his daily duties several times during the interview. The applicant advised that he did human resource data and wrote letters for people who were sick "to go to medical". He did so for seven years. The applicant later advised that he used to "register the human resources". When asked for more information, the applicant advised that he collected data on the resources of every brigade and prepared a report using the brigades' reports. In response to a subsequent question, the applicant clarified that the data collection occurred once a month.
- Although the applicant only completed grade nine in school, he could write and so he was assigned to administration. He told the officer that this assignment was "by chance"; his friends were assigned to labour. It was "normal work" and he had two months of training on the job.

- The applicant advised that he did not do any “guarding”, whether at the administration centre or at the detention centre and that the office had its own guards.
- However, the applicant stated that he was assigned a weapon.
- The applicant would also go and visit his family, who were 30 minutes drive from his workplace. He did this sometimes with authorization, and sometimes without authorization. He noted that sometimes he was caught and got punished.
- The applicant also did some farming at the family’s location.

[9] The GCMS notes reveal that during the interview:

a) The officer reminded the applicant “to be truthful”, after the applicant advised that he was assigned to administrative duties “by chance” and that his friends were assigned to labour.

b) The officer advised the applicant that the officer had problems with the applicant’s case, and did not believe the applicant was being completely honest, because administrative personnel were not issued weapons and it was difficult to understand how the applicant was sent to a place to write letters for seven years given his education (grade nine), detention and training in shooting.

c) The officer expressed a concern that he had “never come across someone in the national service who was issued a weapon for administrative work only”.

d) The officer advised the applicant that in military offices, every soldier is responsible for doing some shifts of guarding. The applicant responded that there were other soldiers for that.

e) The officer advised the applicant that he had “never [before] heard of the service granting authorization for leave for someone who was detained for abandonment”.

f) The officer noted that he had “never heard of the national service allowing a soldier to go home and farm, especially after being detained for leave without authorization”.

[10] During the interview, the officer gave the applicant several opportunities to explain his daily administrative duties. The officer asked both high level questions (“what did you do on a daily basis?”) and specific questions (did he do any guarding? what did the applicant mean that he “used to register the human resources”?).

[11] At the end of the interview, the officer told the applicant that he still had not provided sufficient information about the tasks he was assigned on a daily basis in his office and that the officer could not complete an assessment of his admissibility to Canada. The officer gave the applicant a final additional opportunity to respond. The answer recorded in the GCMS was: “I don’t have any other information. If you have ways to check you can check. I didn’t do anything else.”

[12] The officer advised that he would not make a decision immediately and would send a decision later.

B. *The Decision Letter*

[13] The officer's decision letter dated December 14, 2023, sets out subsections 11(1) and 16(1) of the *IRPA*, which provide:

Application before entering Canada	**Visa et documents**
11 (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.	11 (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.
Obligation — answer truthfully	**Obligation du demandeur**
16 (1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires.	**16 (1)** L'auteur d'une demande au titre de la présente loi doit répondre véridiquement aux questions qui lui sont posées lors du contrôle, donner les renseignements et tous éléments de preuve pertinents et présenter les visa et documents requis.

[14] With respect to truthfulness, the officer's letter stated:

> At the beginning of the interview I made it clear to you that you were under obligation to be truthful in your responses. I informed you that it was my duty to assess both your eligibility and admissibility under Canada's humanitarian program, and that if I was not satisfied you were being truthful your file may be refused. You said that you understood.

[15] With respect to insufficiency, the letter stated that during the interview, the officer raised a concern about the application, which was: “not having insufficient [sic] clear and detailed information regarding [the applicant’s] daily duties while serving in the National Service for 7yrs in Division 19”. The letter stated that when the officer put this concern to the applicant during the interview, the applicant advised about the statistics he would gather, “however this did not seem a detailed enough explanation of tasks to fill your days for 7 years”.

[16] The letter advised that following the interview, the officer was left with insufficient clear information with which to assess whether the applicant met the requirements of the *IRPA* and was not inadmissible to Canada. The letter confirmed that the officer explained to the applicant that without sufficient information, the officer could not complete the necessary assessment. Therefore, the officer refused the application.

II. Admissibility of new evidence on this application

[17] Both parties filed affidavits on this application. Each party objected to the admissibility of parts of the other’s affidavit.

[18] The general rule is that the evidentiary record before a reviewing court is restricted to the evidentiary record that was before the administrative decision maker when the impugned decision was made. There are exceptions, including for background information and for information that is not otherwise in the record related to alleged procedural unfairness. See e.g., *Terra Reproductions Inc. v. Canada (Attorney General),* 2023 FCA 214, at para 5; *Association of*

Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright), 2012 FCA 22, at paras 19-20.

[19] The respondent objected to paragraphs 15-19 of the applicant's affidavit, which provided additional details about the applicant's administrative duties. I agree with this objection insofar as it concerns the Court's reasonableness analysis, because the paragraphs concern information that the applicant could have provided during the interview. However, if it were necessary to analyze the applicant's procedural fairness arguments, this evidence would fall into that exception and be admissible for that purpose.

[20] Paragraph 27 of the applicant's affidavit and the attached exhibits are admissible. The paragraph has no substantive factual content; it only attaches excerpts from country condition reports that the applicant argued were ignored by the officer. They are admissible as background and are properly before the Court as country information that the officer allegedly should have known or considered.

[21] The applicant objected to paragraphs 2-5, 7-10 and 13-16 of the interviewing officer's affidavit, filed by the respondent. At the hearing, the applicant advised that he was not objecting to paragraph 7.

[22] The officer's affidavit provides information about the interview with the applicant – specifically about the process used to question the applicant, how officers are trained (and what this officer did) to ensure that the interpretation was effective. The affidavit comments briefly

about what was stated at the outset of the interview concerning the interpreter. It responds to certain issues raised in the applicant's affidavit about interpretation. The affidavit describes how refugee officers are trained to mitigate for the interpreter's lack of expertise by being "fully informed of country conditions" relevant to the applicant. Finally, the officer's affidavit explains why the officer did not respond separately to the applications of the applicant's children.

[23] The applicant's objection on admissibility was that the officer's affidavit attempts to supplement the reasons provided in the decision letter and the GCMS notes. In my view, the contents of the affidavit are mostly admissible either as background to the interview process or as responsive to the applicant's procedural fairness argument. The contents of the affidavit related to translation issues do not appear to have much relevance to the applicant's position on this application.

[24] However, to the extent that the officer's affidavit contains argument or supplemental reasoning (including the comment about being fully informed about relevant country conditions) related to the reasonableness of the decision, it is not admissible and has no bearing on the analysis.

III. Analysis

A. *Was the officer's decision unreasonable?*

[25] On this judicial review application, the standard of review of the officer's decision is reasonableness, as described in *Vavilov*. Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Vavilov,*

at paras 12-13 and 15. The starting point is the reasons provided by the decision maker, which are read holistically and contextually, and in conjunction with the record that was before the decision maker. A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision maker: *Vavilov*, esp. at paras 85, 91-97, 103, 105-106 and 194; *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21, at paras 8, 59-61, 66.

[26] One legal constraint on an administrative decision is applicable and binding case law: *Vavilov*, at para 112; *Pepa v. Canada (Citizenship and Immigration)*, 2025 SCC 21, at paras 66, 176, 189.

[27] Only a fundamental error may warrant intervention by the Court; a minor misstep is not sufficient to set aside a decision as unreasonable: *Vavilov*, at para 100; *Pepa*, at paras 49, 120.

[28] The parties' approaches to the reasonableness of the officer's decision on this application were markedly different.

[29] According to the applicant, the officer made veiled credibility findings that were, in essence, implausibility findings. The applicant submitted that they that were not justified by the facts before the officer and contradicted country condition evidence that the officer should have reviewed. The applicant relied on the principles set out in this Court's decision in *Valtchev*, that implausibility findings should be made only in the "clearest of cases", i.e., only if the facts as presented are outside the realm of what could reasonably be expected, or if the documentary

evidence demonstrates that the events could not have happened in the manner asserted by the applicant: *Valtchev v Canada (Minister of Citizenship and Immigration)*, [2001] FCJ No 1131, 2001 FCT 776 (TD), at para 7. The applicant noted that the officer did not provide a reason as to why the applicant is inadmissible.

[30] By contrast, according to the respondent, the officer's decision was entirely based on the applicant's failure to provide sufficient information to the officer about his daily "administrative" duties while in the national service. From the respondent's perspective, focusing on the contents of the decision letter, the officer did not make any credibility findings. Rather, the officer found that the applicant did not provide enough information to make a determination of whether the applicant was not inadmissible (one way or the other). Alternatively, the respondent maintained that any negative credibility findings made by the officer did not affect the outcome. In addition, the respondent submitted that the officer was entitled to use knowledge gained through professional experience to inform the assessment and decision on the factual circumstances related to whether the applicant was not inadmissible.

[31] I agree with the respondent that the officer's conclusion, as stated in the letter dated December 14, 2023, was stated to be based on the applicant's failure to provide sufficient information about his daily duties while serving in the military, to enable the officer to make a determination of whether the applicant was not inadmissible.

[32] However, the officer's conclusion on insufficiency cannot realistically be separated or extracted from the officer's obvious disbelief of numerous statements made by the applicant

during the interview. That disbelief is reflected in both the reasons provided in the decision letter (by the officer's references to the applicant's "obligation to be truthful" in his responses at the interview) and by numerous instances in the GCMS notes of the interview (described in detail at paragraph 9, above).

[33] The officer's reliance in the decision letter on subsection 16(1) of the *IRPA* is consistent with a decision based on both insufficiency (a person must produce "all relevant evidence and documents that the officer reasonably requires") and doubts about the applicant's truthfulness (a person "must answer truthfully all questions put to them").

[34] I agree with the applicant that the officer made negative credibility findings based on the implausibility of factual statements made by the applicant during the interview.

[35] It is settled law that implausibility findings should be made only in the clearest of cases, *i.e.*, only if the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the claimant: see e.g., *Skelton v. Canada (Public Safety and Emergency Preparedness)*, 2024 FC 1353, at para 46; *Flayyih v. Canada (Citizenship and Immigration)*, 2024 FC 1000, at para 28; *Gebreslasie v. Canada (Citizenship and Immigration)*, 2021 FC 566, at para 12; *Valtchev*, at para 7.

[36] In *Zaiter v Canada (Citizenship and Immigration)*, 2019 FC 908, Justice Norris stated:

> [9] It is important to remember that the ultimate question for the decision-maker is not whether the events in question occurred but

> whether the claimant is to be believed when he or she says that they did. Adverse credibility determinations based on implausibility should not be made simply on the basis that is it unlikely that things happened as the claimant contends. Individual experiences need not always follow the norm. Unlikely events can still happen. Something more is required before a claimant may be found not to be credible on the basis of implausibility alone. Importantly, this restriction on this type of fact-finding helps mitigate the risk of error if a claimant's account is rejected.
>
> [Emphasis added.]

[37] I have previously set out my concerns about the inherent hazards of assessing an individual's evidence based on the officer's own memories of prior refugee interviews, and without reference to any objective evidence: *Amanuel v. Canada (Citizenship and Immigration),* 2021 FC 662, at paras 37-39, 44-45 (citing *Ghirmatsion v Canada (Citizenship and Immigration)*, 2011 FC 519, [2013] 1 FCR 261, at para 69). The following passage appears in *Amanuel*, at paragraph 38:

> …an officer's memories of hundreds of refugee claimant interviews may be accurate in some areas, but impressionistic, selective or unreliable in others. In addition, one officer's experiences with refugee interviews may be different from other officers' experiences. The absence of a third-party or other objective analysis of patterns in refugee claimants' answers injects subjectivity and reliability concerns into the implausibility findings, that would otherwise be based on objectively discernable facts.

See also *Gebreslasie,* at para 16.

[38] In this case, the interview notes show that the officer made numerous comments during the interview – essentially findings along the way – that he did not believe what the applicant was telling him. In particular, the officer made these comments about whether the applicant was actually assigned only to administrative duties for the military during the seven years he was in

national service. The interview notes show that on two occasions near the start of the questioning, the officer expressly doubted the truthfulness of the applicant's answers. In addition, the officer stated three times that he had never previously heard of or encountered anyone doing something the applicant stated he had done while working in national service. The officer's decision letter, sent two months after the interview, did not refer to any objective country evidence that contradicted the applicant's statements during the interview or supported the officer's doubts about their truthfulness. In the language of *Valtchev,* the officer did not refer to any objective source to demonstrate that the events could not have happened in the manner asserted by the applicant.

[39] In my view, it is apparent from the decision letter and the interview notes that the officer simply did not believe many of the applicant's statements during the interview. It is equally clear that the officer's disbelief was based solely on the officer's personal experience and memories of other interviews, rather than on any inconsistencies in the applicant's narrative or evidence, or any contradictions with objective country evidence or with other external information examined by the officer.

[40] In the circumstances, the officer's decision did not respect a legal constraint in this Court's settled case law, namely, the legal principles emanating from *Valtchev* set out above: *Vavilov,* at para 112; *Pepa*, at paras 66, 176, 189. See also: *Guni v. Canada (Citizenship and Immigration),* 2025 FC 750, at paras 13-14; *Gebreslasie,* at paras 16, 18; *Al Dya v. Canada (Citizenship and Immigration),* 2020 FC 901, at paras 26-29, 41.

[41] The respondent is correct that, in some circumstances, officers may use their general experiences and knowledge of local conditions to draw inferences from the evidence: see e.g., *Tedla v. Canada (Citizenship and Immigration)*, 2024 FC 1255, at para 24; *Amanuel*, at paras 46-47; *Al Hasan v. Canada (Citizenship and Immigration)*, 2019 FC 1155, at para 10. Here, the respondent made two arguments. First, the respondent contended that it was open to the officer to use his knowledge of the military and the applicant's desertion and re-capture to find there was insufficient evidence to demonstrate that the military allowed the applicant to visit his family and farm. However, there is no suggestion in the interview notes or the decision letter that the officer had any special or acquired knowledge of the military. In addition, the officer did not refer to any objective evidence, for example, in the National Documentation Package (*"NDP"*) for Eritrea. The respondent did not point to any country evidence in the NDP that supported or was consistent with the officer's doubts about the applicant's statements. Indeed, the respondent objected to the admissibility of the country evidence attached to the applicant's affidavit filed on this application.

[42] Similarly, I cannot accept the respondent's contention that it was self-evident that an individual assigned to administrative duties would not be assigned a weapon. I agree with the respondent that the officer accepted that the applicant was assigned to a military role in the national service (not a civilian role). In that light, it is hard to see how it was the "clearest of cases" to find it implausible that the applicant would be issued a weapon. Again, the officer made no reference to any country evidence to support this view, and the respondent did not refer to information from the NDP on this issue.

[43] The information in the NDP adduced by the applicant does not wholly support his interview statements on being assigned administrative duties and being able to go home during working hours to farm. However, those excerpts do appear to be more consistent with the applicant's statements than with the officer's doubts. It is unnecessary to say more in this analysis.

[44] The officer's finding of insufficient information about what the applicant was doing during his military service was bound up with the officer's disbelief based on implausibility of the applicant's statements during the interview. The unreasonable implausibility findings cannot be severed and were sufficiently important to render the decision unreasonable: *Vavilov*, at para 100; *Gebreslasie,* at para 19.

[45] As a result of this conclusion on the substantive grounds of judicial review, I do not need to consider the parties' submissions on procedural fairness.

IV. Conclusion

[46] For these reasons, the application for judicial review is granted. The officer's decision must be set aside. The determination of whether the applicant is not inadmissible to Canada will be returned for redetermination by another officer. In the circumstances, I will direct that the applicant be interviewed again for the redetermination.

[47] Consistent with judicial review principles, nothing in these Reasons comments on the merits of the determination of whether the applicant is not inadmissible to Canada, including the

(in)sufficiency of the information provided by the applicant and whether it should be accepted or believed: *Vavilov*, at para 83; *Pepa*, at paras 48, 179.

[48] Neither party proposed a question to certify for appeal and none arises.

JUDGMENT in IMM-16134-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted. The decision dated December 14, 2023, is set aside.
2. The determination of whether the applicant is not inadmissible to Canada is returned for redetermination by another officer. The Court directs that the applicant be interviewed again for the redetermination.
3. No question is certified under paragraph 74(d) of the *Immigration and Refugee Protection Act*.

"Andrew D. Little"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-16134-23
STYLE OF CAUSE:	DAWIT ANDERBRHAN TAFERE v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JANUARY 29, 2025
REASONS FOR JUDGMENT AND JUDGMENT:	A.D. LITTLE J.
DATED:	AUGUST 8, 2025

APPEARANCES:

Teklemichael Ab Sahlemariam	FOR THE APPLICANT
Desmond Jung, David Knapp	FOR THE RESPONDENT

SOLICITORS OF RECORD:

TAS Law Office Toronto, Ontario	FOR THE APPLICANT
Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT