

Federal Court



Cour fédérale

Date: 20250909

Docket: IMM-13565-24

Citation: 2025 FC 1488

Toronto, Ontario, September 9, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

ROBINSON IZEKOR

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of a Refugee Appeal Division (RAD) decision to dismiss his appeal from the refusal of his refugee claim. The appeal was dismissed because the RAD found that the Applicant had not established his identity.

[2] For the following reasons, the decision is unreasonable because the RAD was not justified in disregarding the Applicant's genuine Nigerian passport.

II. Background

[3] The Applicant applied for refugee protection in Canada on March 29, 2022 on the basis of his sexual orientation. The substance of the Applicant's claim was not determined by either the Refugee Protection Division (RPD) or the RAD; both tribunals found that the Applicant's identity had not been established.

[4] The Applicant only presented the RPD with a photocopy of the biodata page from the Nigerian passport which he left behind in Nigeria. The RPD did not admit this photocopy into evidence, finding it insufficient to establish the Applicant's identity.

[5] The Applicant arranged for his original passport to be sent to Canada, but it was seized by the Canada Border Services Agency (CBSA) when it arrived. Despite the RPD's direct request to the CBSA for the passport, it was not sent to the RPD. The RPD also notified the Minister of its identity concerns, but the Minister declined to intervene in the RPD proceedings.

[6] Before the RAD, the Applicant provided an original Nigerian passport that was issued by the Nigerian High Commission in Canada after the RPD decision. The RAD found that this document was an authentic passport issued by the High Commission, but then alternatively found that the document had both "no probative value" and "little probative value" in establishing the Applicant's identity. These findings were based on the RAD's suspicion that the document, and possibly the Applicant's previous passports, were issued on the basis of false information.

[7] The Applicant offered other documents to the RAD in an attempt to establish his identity, including his National Identity Number (NIN) and a National Population Commission birth attestation sworn by the Applicant's uncle, but the RAD refused to accept these documents into evidence.

III. Issue

[8] The sole issue in this application is whether the RAD's decision is reasonable pursuant to the reasonableness standard described in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], and affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21.

IV. Analysis

[9] While the RAD alternatively assigned the Applicant's recently issued passport "no probative value" and "little probative value", the document was clearly assigned no value. This disregard of the Applicant's genuine passport was unreasonable.

[10] I agree with my colleague Justice Russel Zinn that a "decision respecting identity is critical to an applicant and the RAD must examine and weigh all of the evidence that directly goes to that issue" (*Farah v Canada (Minister of Citizenship and Immigration)*, 2023 FC 760 at para 32 (*Farah*)).

[11] In *Farah*, Justice Zinn relied upon jurisprudence from the Court establishing a principle that foreign documents purporting to be issued by a competent foreign public officer should be

accepted as evidence of their contents unless the Board has some valid reason to doubt their authenticity (*Farah*, at para 20 citing *Rasheed v Canada (Citizenship and Immigration)*, 2004 FC 587 at paras 19-20).

[12] In the present, case the RAD did accept the authenticity of the Applicant's passport but found it unreliable. Therefore the next appropriate question, based upon the question posed by Justice Zinn in *Farah*, is what other evidence before the RAD justified the disregard of the document (*Farah*, at para 21).

[13] The evidence relied upon by the RAD to impugn the Applicant's authentic passport consisted of documentary evidence regarding the prevalence of fraud in the issuance of Nigerian documents, and "contradictory" evidence from the Applicant about his documents. The remainder of the RAD's justifications in dismissing the passport were speculative and unintelligible.

A. *Documentary evidence regarding the prevalence of fraud in the issuance of Nigerian documents*

[14] The RAD cited documentary evidence indicating that "all forms of genuine documents can be obtained using false information because of the prevalence of fraud. This includes passports."

[15] This evidence was used to support the RAD's suspicions regarding the reliability of the Applicant's passport. However, evidence regarding the general prevalence of unreliable identity documents has limited impact on the determination of whether a particular identity document is unreliable (*Oranye v. Canada (Citizenship and Immigration)*, 2018 FC 390 at paras 28-29).

[16] The RAD appeared to accept the Applicant's evidence that he did not need to provide any documents when he applied for his Nigerian passport in Canada because his biometric information was already in the system. The RAD then used this evidence to bolster its conclusion "on a balance of probabilities" that the Applicant's biometrics in the system did not belong to him.

[17] In doing so, the RAD placed an onus on the Applicant to disprove the speculation that the passport was issued based on incorrect information. The RAD unreasonably failed to respect the governing jurisprudential constraint regarding the presumptive validity of the contents of authentic identity documents issued by a foreign authority (*Farah*, supra; *Vavilov*, at paras 111-114).

B. *The Nigerian High Commission's lack of knowledge that the Applicant previously used a false American passport*

[18] The RAD also bolstered its doubts about the Applicant's genuine passport by the lack of evidence that the Nigerian passport officials in Canada knew about the Applicant's use of a false American passport to travel to Canada. Aside from the lack of justification for this factual premise, the finding is unintelligible. It is not clear how the Applicant's use of a false U.S. passport to arrive in Canada could be relevant to the Nigerian High Commission in executing its responsibility of issuing the Applicant's passport.

C. *The "absence of other credible identity documents"*

[19] The RAD's disregard of the Applicant's passport was also based on the absence of other credible identity documents. In fact, the Applicant attempted to adduce other evidence of his

identity, including his NIN and a birth attestation document, but the RAD refused to admit the evidence.

[20] Part of the reason why the RAD did not admit the Applicant's evidence of his NIN was that his testimony at the RPD regarding whether or not he applied for a NIN in the past was contradictory. This is an unreasonable finding without regard to the evidence. The Applicant consistently maintained that he did not previously apply for an NIN. His evidence was that at one point he stood in a line in an attempt to apply for an NIN but then left the line. The RAD appears to have interpreted his attempt to apply for an NIN as an application for an NIN.

[21] Next, the RAD refused admission of the birth attestation on the basis that it attests to an event that occurred before the RPD decision — the Applicant's birth. The RAD's refusal to admit this document was unreasonably inconsistent with its decision to admit the Applicant's genuine passport into evidence. Both documents were issued after the RPD decision. Both documents attested to an event — the Applicant's birth — that occurred before the RPD proceedings. Yet, inexplicably, one document was admitted, and the other document was not admitted.

[22] Counsel for the Respondent attempted to resolve the inconsistency by pointing out that the passport was specifically requested by the RAD. However, this does not resolve the RAD's inconsistent application of the principle for the admission of evidence.

[23] It was unreasonable for the RAD to unreasonably refuse to admit the Applicant's additional identity evidence, then impugn the Applicant's passport based on the "absence" of other credible identity documents which the RAD itself orchestrated.

D. *The Applicant's contradictory evidence regarding how he obtained his original passport*

[24] The RAD's observation regarding the Applicant's unclear testimony at the RPD is valid. However, the transcript reveals that the Applicant's testimony followed a confusing examination from his counsel, with questions that ricocheted between different identity documents and different time periods, while the RPD — the fact-finder and principal inquisitor — observed passively.

[25] The RAD's concern should have been tempered by the understanding — apparent from the transcript — that the confusing testimony was not solely the Applicant's responsibility. Given the context of the examination, the Applicant's unclear testimony could not reasonably provide the basis for disregarding the Applicant's genuinely and recently issued passport as proof of his identity.

V. Conclusion

[26] The RAD unreasonably dismissed the Applicant's genuine passport based on speculative, unjustified concerns, rendering the decision unreasonable.

JUDGMENT in IMM-13565-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is granted, the decision of the Refugee Appeal Division is set aside, and the matter is remitted to a different panel of the Refugee Appeal Division for redetermination.
2. There is no order regarding costs and no question for certification.

“Michael Battista”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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