Federal Court  Cour fédérale

Date: 20250909

Docket: IMM-10260-24

Citation: 2025 FC 1487

Ottawa, Ontario, September 9, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

XX
YY

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicants are a mother and daughter who are both citizens of Nigeria. The family includes a four-year old daughter born in Canada, and her interests are at stake even though she is not an Applicant in this proceeding.

[2] The Applicants applied for a Pre-Removal Risk Assessment (PRRA) because of a fear that the minor daughters will be subjected to Female Genital Mutilation (FGM) if they return to Nigeria. Their application was refused. The Applicants seek judicial review of that decision.

[3] In light of the risks alleged, an Anonymity Order was granted to protect the Applicants' identities.

[4] At the conclusion of the hearing in this matter, I indicated that I was granting the application for judicial review, with reasons to follow. These are those reasons.

I. Background

[5] The Applicants are a mother (the PA) and her 9-year-old daughter (the DA). Both are citizens of Nigeria and members of the Yoruba ethnic group.

[6] The PA has two other children: her eldest adult daughter, who is a citizen of Nigeria and has Protected Person status in Canada, and her youngest minor daughter, who was born in Ontario and holds Canadian citizenship.

[7] The Applicants, together with the PA's ex-husband, previously submitted claims for refugee protection and a PRRA. They also applied for permanent residence on humanitarian and compassionate grounds (H&C). Each of these claims was primarily grounded in the risks the PA's ex-husband said he faced if they were forced to return to Nigeria. All of those claims were rejected.

[8] In early 2023, the PA divorced her ex-husband. The PA then filed a second PRRA request, alleging a risk that her daughters would be forced to undergo FGM on return to Nigeria. The PA's eldest daughter no longer faces this risk, because she has been accepted as a Protected Person in Canada.

[9] The Applicants' PRRA request was refused. They seek judicial review of this decision, claiming that the Immigration Officer's (Officer) treatment of the evidence submitted in support of their claim was unreasonable.

II. Issues and Standard of Review

[10] The only issue in this case is whether the Officer's decision is unreasonable. This question is assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*].

[11] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85; *Mason* at para 8). The onus is on the Applicants to demonstrate that "any shortcomings or flaws… are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing 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).

[12] Two aspects of the *Vavilov* framework are particularly relevant here.

[13] First, reasonableness is a single standard that accounts for the context in which the decision was made. This recognizes that administrative decisions "vary in complexity and importance, ranging from the routine to the life-altering" (*Vavilov* at para 88). The burden of justification that lies on the decision-maker increases in proportion to the impact of the decision on the lives of the individuals affected by it. Thus, "[w]here the impact of a decision on an individual's rights and interests is severe, the reasons provided to that individual must reflect the stakes" (*Vavilov* at para 133).

[14] Second, a reasonable decision must be based on internally coherent reasoning. The Supreme Court of Canada put it this way in *Vavilov* at para 103: "a decision will be unreasonable if the reasons for it, read holistically, fail to reveal a rational chain of analysis or if they reveal that the decision was based on an irrational chain of analysis…A decision will also be unreasonable where the conclusion reached cannot follow from the analysis undertaken…or if the reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point" (citations omitted).

[15] The Supreme Court added:

> [104] Similarly, the internal rationality of a decision may be called into question if the reasons exhibit clear logical fallacies, such as circular reasoning, false dilemmas, unfounded generalizations or an absurd premise. This is not an invitation to hold administrative decision makers to the formalistic constraints and standards of academic logicians. However, a reviewing court must ultimately be satisfied that the decision maker's reasoning "adds up".

III. Analysis

[16] In my view, the Officer's decision in this case does not "add up" because I am unable to trace the logical connections between key points in the analysis to the evidence and submissions put forward by the Applicants. Simply put, in making findings on the key elements of the claim, it is not enough for an Officer to summarize the evidence at a level of generality. Instead, the decision must demonstrate that the Officer actually grappled with the specific evidence about the risks faced by these particular claimants in light of the evidence on their particular circumstances.

[17] Applying the *Vavilov* framework to the Officer's decision in this case, I find that the Officer reached conclusions based on their reading of general country condition evidence, but failed to engage with how that evidence applies in the particular circumstances of this case. I also find that the Officer's findings on the key pieces of evidence put forward by the Applicants are unreasonable.

[18] The basis for the Applicants' PRRA application was the risk that the DA and the PA's youngest daughter (who was born in Canada) would be subjected to FGM by the PA's extended family in Nigeria. The Officer was not persuaded that this risk had been established, largely because they discounted the PA's mother's evidence and because they found that the country condition evidence showed that the prevalence of FGM in Nigeria had decreased, and there were laws that could be enforced to protect the Applicants from being forced to undergo it.

[19] There are two key flaws in the Officer's analysis. First, their justification for giving little weight to the evidence put forward by the Applicants is untenable. Second, the Officer did not explain why certain portions of the country condition evidence were favoured while other relevant elements were discounted. I will discuss a few examples of each of these problems.

[20] The PA submitted two sworn statements outlining her personal history and the basis for her fears of returning to Nigeria. She also put forward an unsworn declaration by her mother and a letter from her sister, together with medical evidence about her sister. The PA described the experience of her own family. She swore that she and her sisters had been subjected to FGM, as had her own mother, as well as her deceased niece and her own deceased daughter. The PA's mother confirmed that the PA and all of her sisters had been subjected to FGM, providing specific information about when this had occurred (9 days after the PA's birth, and the same for her sister), who had performed it, and where it happened. The PA's sister confirmed that she had been subjected to FGM, and that her daughter (the PA's niece) had undergone the practice and died as a result.

[21] The Officer accepted that the PA's sister had undergone FGM but made no other findings about the PA's own experience or that of her mother or the PA's daughter and niece. The Officer gave little weight to the mother's letter because it was unsworn, lacking in details, and contrary to the country condition evidence.

[22] This analysis is unreasonable for the following reasons. First, the Officer failed to make any findings regarding crucial evidence, such as the PA's sworn statement that she and her

sisters had all undergone FGM. Second, the Officer failed to explain how the PA's mother's letter was vague, even though the mother included details about who had committed FGM on the PA and her sister, and also when and where it occurred.

[23] Finally, and crucially, the Officer did not explain how the mother's letter was inconsistent with country condition evidence. The Officer acknowledged that while the practice of FGM was declining in Nigeria, it continued to occur and much depended on the local and family circumstances. However, the Officer did not discuss how the general country conditions might apply in the circumstances of these particular Applicants.

[24] The PA claimed that her daughters were at risk of FGM on a return to Nigeria because she is from a group (Yoruba) and lived in a region (Osun State) where this practice is still prevalent, and her own extended family were committed to ensuring that female offspring undergo the practice. The Officer failed to engage with the evidence put forward by the Applicants at key junctures in the analysis, preferring instead to rely on more general country condition evidence. Failing to analyze the risks to these Applicants in light of their specific evidence was unreasonable. The Officer further failed to explain why the more general country condition evidence was preferred. In essence, I find that the Officer failed to grapple with the key evidence put forward by the Applicants on issues going to the core of their claim. That is not reasonable.

[25] The Officer stated that "there is little indication or evidence that [the PA's] children were made to undergo FGM or that she received threats to subject them to the practice." To justify this

conclusion, the Officer needed to grapple with the specific evidence of threats that the PA faced, from her own family and that of her ex-husband. For example, the evidence shows that the PA's mother had custody of the eldest daughter for a period of time, during which she faced repeated threats from her extended family because she refused to allow them to subject the girl to FGM. At one point the mother hid the child from the family, with the PA then returning to rescue her and subsequently go into hiding. Similarly, the PA's evidence is that she and her ex-husband had to flee from his family who wanted to subject the DA to FGM. The Officer failed to engage with this evidence.

[26] Finally, on the country condition evidence, the Officer found that it showed that the practice of FGM was decreasing, that laws had been enacted to prohibit it, and that the Applicants could seek state protection if they faced threats or coercion in relation to FGM.

[27] The problem here is that while the Officer mentions in passing that these laws are rarely enforced, and that the prevalence of the practice appears to vary depending on circumstances, there is no real discussion about what this means for these Applicants in light of their situation and the experience of the PA, her sister and her mother. For example, the Officer did not discuss the evidence showing that the Yoruba people continue to have some of the highest rates of FGM among the different groups, and that while the practice has declined in Osun State, it remains a common practice there. The evidence shows that between one-quarter and one-third of Yoruba girls and women had been subjected to it. The evidence shows that the Applicants' extended family, and the PA's ex-husband's family, still seek to ensure that FGM is performed on female offspring.

[28] The Officer needed to analyze the Applicants' risk in light of these particular facts. The fact that there has been a general decline in the practice of subjecting girls and women in Nigeria to FGM is not relevant if the risks remain high for these particular Applicants. The country condition evidence is clear that local, family and tribal practices are important considerations.

[29] The evidence also shows that the adoption of laws banning FGM in Nigeria has not eradicated the practice. To take but one example, Osun state has adopted a law forbidding the practice, yet the evidence shows that FGM rates in that area are among the highest in the country. There is abundant evidence that police do not investigate alleged violations of the law, and there has not been a single conviction under the federal law. The Officer noted that the state in Nigeria is "generally willing and/or able to provide protection, and is accessible to girls or women in fear of FGM." However, the Officer failed to consider whether these particular Applicants would be able to access state protection in practice, in light of the evidence they provided.

[30] These examples demonstrate why I have found the decision to be unreasonable.

IV. Proposed Certified Question

[31] The Applicant proposed a question for certification, namely:

> "In the context of a Pre-Removal Risk Assessment, it is reasonable for an Officer to refuse to afford full weight to a written statement from third-party on the basis that is it not a sworn document, where the Officer has otherwise not identified concerns about the provenance of the statement?"

[32] I am not persuaded that this is an appropriate question for certification under the test set out by the Federal Court of Appeal in *Lunyamila v Canada (Public Safety and Emergency Preparedness)*, 2018 FCA 22. First, this question is not determinative of the outcome of this case. Second, the question of the weight to be accorded to sworn and unsworn statements has been discussed in many previous cases, and I am unable to find any clear division or unresolved tension in this case-law.

[33] The Applicants argue that it was an error for the Officer to give little weight to the mother's letter simply because it was unsworn. According to the Applicants, such a finding is only appropriate in relation to statements put forward by the Applicant themselves, in light of the *Maldonado* presumption: *Maldonado v Canada (Minister of Employment and Immigration)*, 1979 CanLII 4098 (FCA), [1980] 2 FC 302 (FCA) [*Maldonado*]. They say that it is not appropriate to accord less weight to a third party's statement offered in support of a claim, because the *Maldonado* presumption does not apply to such evidence. To the extent that this is a question in need of an answer in law, I am not persuaded that it is appropriate for certification in this case. It is better left for a future case when the issue is actually determinative of the outcome.

V. Conclusion

[34] In view of my findings set out above, the application for judicial review is granted. The decision is quashed, and the matter is remitted back to a different immigration officer for reconsideration. The Applicants shall be permitted the opportunity to provide further evidence and submissions if they wish to do so.

JUDGMENT in IMM-10260-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.

2. The decision refusing the Applicants' Pre-Removal Risk Assessment is quashed and set aside.

3. The matter is remitted back for reconsideration by a different decision-maker.

4. The Applicants shall be granted the opportunity to submit updated evidence and fresh submissions, if they wish to do so.

5. There is no question of general importance for certification.

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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