

Federal Court



Cour fédérale

Date: 20251023

Docket: IMM-13473-24

Citation: 2025 FC 1716

Toronto, Ontario, October 23, 2025

PRESENT: Mr. Justice Brouwer

BETWEEN:

GABRIEL ANSAH UDOGU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Gabriel Ansah Udogu seeks judicial review of a decision of the Refugee Appeal Division [RAD] refusing his appeal on the basis that he failed to establish his identity as a citizen of Nigeria or a person who was born there. I find that the RAD's treatment of some of the identity documents submitted by Mr. Udogu was unreasonable, and that the decision must therefore be quashed.

I. Background

[2] Mr. Udogu, who identifies as Igbo, asserts that he was born and raised in Awgbu, Anambra State, Nigeria and is a citizen of that country. He alleges that he became politically active as a university student leader in Anambra State in 2015, but that he and his friends began receiving threats. When two of his friends were assassinated - he believes by senators that they had all denounced – he fled to Lagos, and then to Ghana in January 2017. There he says he secured a false Ghanaian passport and travelled by cargo ship to Ecuador, where he settled for the next several years, using the false Ghanaian passport to obtain an Ecuadoran residence permit. By November 2022, according to Mr. Udogu, the racism and discrimination he was experiencing had become intolerable, so he left Ecuador and made the treacherous journey by land to Canada. He says he lost his identity documents while passing through the jungle in the Darien Gap, but he had a photo of his Ecuadorean residence card on his phone, which references the Ghanaian passport.

[3] Mr. Udogu entered Canada at Roxham Road in February 2023 and claimed refugee protection. During his entry examination he told the interviewing officer from the Canada Border Services Agency [CBSA] that he was a citizen of both Nigeria and Ghana, and he stated the same in the Generic application form he completed at that time. However, in the Basis of Claim form he filed less than two months later he stated that he was a citizen of Nigeria only. He has maintained this position ever since, explaining that his reference at the port of entry to being a dual national was the result of language barriers during the interview.

[4] In order to prove his identity Mr. Udogu submitted the photo of his Ecuadorean identity card, a Nigerian government-issued Attestation of Birth, an Identification Certificate issued by a local government council in Nigeria, and a National Identification Number slip issued by Nigeria. He also submitted letters and affidavits from friends and family members attesting to the events that caused him to flee.

[5] Following an oral hearing the RPD dismissed Mr. Udogu's claim on the basis that he had not established his national identity on a balance of probabilities, and by decision dated July 5, 2024, the RAD upheld the RPD's decision.

II. Issues

[6] Mr. Udogu challenges the reasonableness of the RAD's findings that he had submitted insufficient evidence of his Nigerian nationality and that his ties to Ghana weighed against his claim of sole Nigerian citizenship.

[7] The standard of review applicable to decisions of the RAD is reasonableness (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [*Vavilov*]). When reviewing the reasonableness of a decision of the RAD, this Court assesses whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and is justified in relation to the relevant factual and legal constraints that bear upon the decision (*Vavilov* at paras 99-100). Where “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). This Court has

recognized that the stakes are very high in RAD decisions (*Shanmugam v Canada (Citizenship and Immigration)*, 2025 FC 911 at para 14).

III. Analysis

[8] Before undertaking its analysis of Mr. Udogu's identity documents, the RAD highlighted a number of "factors that tend to undermine" his claimed identity as a Nigerian citizen, including his admitted possession and use of a Ghanaian passport in Ecuador, his unclear testimony about his mother's status in Ghana (where she was born), his admission that he spent time in Ghana in the past, and his statements at the port of entry. The RAD endorsed the RPD's determination that these and other related factors "raised significant concerns" about Mr. Udogu's identity and nationality, and his "ties to Ghana rather than Nigeria," and formed the "context" in which it evaluated Mr. Udogu's identity documents.

[9] The RAD then proceeded to evaluate the reliability of the documents adduced by Mr. Udogu. It gave no weight to the Attestation of Birth issued by the Nigerian National Population Commission because the statutory declaration that was submitted to the Commission had misidentified the declarant as Mr. Udogu's brother when in fact it was his adult son. It endorsed the RPD's negative findings about the reliability and probative value of the Identification Certificate issued by a Local Government Council, which identified Mr. Udogu as a native of Ozu village in Orumba, Nigeria, for the same reason, as well as doubts about how a local king who had provided a letter to the Council confirming Mr. Udogu's background knew Mr. Udogu and the circumstances of his birth. The RAD also endorsed other reasons for doubting the Identity Certificate, namely that being a "native" of Ozu did not establish that he was born there,

and that Mr. Udogu had given inconsistent information about his family composition including about the sister who obtained the Identity Certificate.

[10] It is well established in the jurisprudence that identity documents issued by foreign governments are to be presumed valid unless evidence is provided to prove otherwise (*Adesida v Canada (Citizenship and Immigration)*, 2016 FC 256 at para 19; *Rasheed v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 587 at paras 18-23; *Ramalingam v. Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 7241 at paras 5-6 (FC) [*Ramalingam*]).

[11] Not only did the RAD fail to acknowledge the presumption of validity of the Nigerian identity documents, it actively undermined the validity of the documents not because it believed they had not actually been issued by Nigerian authorities but because they believed that Nigerian authorities lacked a valid basis upon which to issue the documents in the first place. The RAD relied on a peripheral error in the statutory declaration underlying the Attestation of Birth to effectively determine that Nigerian authorities had issued it in error, and it then questioned the basis upon which a local king in Nigeria had issued a letter about Mr. Udogu's background to find that the resulting Identity Certificate was likewise unreliable (the RAD stated: "Though it is possible that a local king was acquainted with the Appellant and that the Appellant spent some time in Nigeria in that area, there was nothing in the document that could speak to how or whether the local king had knowledge of the Appellant's birth in Nigeria or his entitlement to Nigerian citizenship.").

[12] The RAD's reasoning took it well beyond the limits of its own expertise. As Justice Dubé explained almost 30 years ago in *Ramalingam*:

[5] ...[I]dentity documents issued by a foreign government are presumed to be valid unless evidence is produced to prove otherwise: see Gur, Jorge P. (1971), 1 I.A.C. 384 (I.A.B.)¹. In that Immigration Appeal Board decision, the Chairman asked the following question at page 391:

"The question here is, who can question the validity of an act of state and who, having questioned it, has the burden of proof as to its validity, and what proof is required?"

He provided the right answer at page 392, as follows:

"Although there is almost no jurisprudence to be found bearing directly on the point, it must be held that an act of state - a passport or a certificate of identity - is *prima facie* valid. The recognition of the sovereignty of a foreign state over its citizens or nationals and the comity of nations make any other finding untenable. The maxim *omnia praesumuntur rite et solemniter esse acta* applies with particular force here, establishing a rebuttable presumption of validity."

[6] In this instance, the Board challenged the validity of the birth certificate without adducing any evidence in support of its contention and, clearly, the matter of foreign documents it is not an area where the Board can claim particular knowledge. That, in my view, constitutes a reviewable error on the part of the Board.

[13] It appears that the RAD allowed its doubts about Mr. Udogu's testimony regarding his ties to Ghana to cloud its assessment of his Nigerian government-issued identity documents. This was not for lack of awareness of the presumption of validity, however. The RAD relied on the related presumption that possession of a national passport may be treated as *prima facie* evidence of citizenship, even though the passport in question – the allegedly fraudulent Ghanaian passport – was not in evidence. Yet when it came to assessing the Nigerian identity documents that were

actually before it, the RAD started from the presumption that Mr. Udogu's claim of Nigerian nationality was not credible, ignoring the presumption of validity altogether.

[14] I find that that the RAD's assessment of Mr. Udogu's identity documents was unreasonable, and this error requires that the decision be set aside. Had the RAD taken as the starting point for its assessment of Mr. Udogu's identity documents that they were presumptively valid, rather than starting from the "context" that Mr. Udogu was probably not Nigerian, the outcome may have been different.

[15] In coming to this conclusion, I do not wish to overstate the presumption of validity or to suggest that the RAD can never reject foreign identity documents. The jurisprudence clearly establishes otherwise. However, the RAD must have good reason based on relevant evidence to rebut the presumption. Neither was present here.

[16] As the RAD's unreasonable treatment of Mr. Udogu's identity documents is determinative, I make no additional finding regarding the RAD's assessment of his ties to Ghana.

[17] Neither party proposed a question for certification, and I agree that none arises.

JUDGMENT in IMM-13473-24

THIS COURT'S JUDGMENT is that:

1. The application is allowed.
2. The decision of the RAD dated July 5, 2024, is set aside and the matter is remitted to a different Member for redetermination in accordance with the law.
3. No question is general importance is certified.

"Andrew J. Brouwer"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13473-24

STYLE OF CAUSE: GABRIEL ANSAH UDOGU v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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JUDGMENT AND REASONS: BROUWER J.

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