

Federal Court



Cour fédérale

**Date: 20260123**

**Docket: IMM-13884-24**

**Citation: 2026 FC 103**

**Ottawa, Ontario, January 23, 2026**

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

**BETWEEN:**

**OBINNA NWAOKONKO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Refugee Protection Division [RPD] rejected the Applicant's claim for refugee protection, finding that the narrative advanced was not credibly established on the evidence provided. The RPD also concluded that the claim was manifestly unfounded under section 107.1 of the *Immigration and Refugee Protection Act*, SC 2001, c 27. The Applicant submits that these conclusions are unreasonable.

[2] This application for judicial review is dismissed.

[3] The Applicant, Mr. Nwaokonko, is a citizen of Nigeria. He says that he fears persecution in Nigeria following the disclosure of his sexual orientation by former same-sex partners. He asserts that this disclosure gave rise to fears for his safety, his life, and future persecution. Because of these fears, he sought refugee protection in Canada in 2024.

[4] The RPD identified several concerns with the Applicant's claim. Among them were concerns regarding the credibility of the narrative advanced.

[5] The first concern, and the concern the RPD said informed its overall adverse credibility finding, was the similarities between the Applicant's narrative and the narratives of three unrelated refugee claimants from Nigeria, Jamaica, and Zimbabwe. The RPD found that "the claimant's description of how he first realized he is bisexual, how same-sex relationships were treated at his school, how he had his first same-sex encounter, how he continued a same-sex relationship after marrying a woman, and how he was caught with his same-sex partner are all replicated almost word-for-word in at least one of the other narratives disclosed." The RPD further noted: "In addition to containing similar flows, themes, and sequencing of the events to the other narratives, the claimant's narrative contains multi [sic] paragraphs with identical wording and multiple passages in which only names or dates are changed."

[6] The RPD highlighted examples of these similarities, as follows:

Claimant's narrative, paragraph 4: At about 15 years old, when I was maturing into adolescence, I noticed that while I had sexual attraction towards beautiful teenage girls of my age, I also had sexual attractions towards some young men my age, who are

muscular and well built, and whose rear anatomy appear well-rounded. This sexual urge towards other boys may not have occurred with the same degree and regularity as my attraction with those of the female gender, but when they do occur, they happen with such intensity and pull. It comes from within me, unplanned and un-designed.

Nigeria narrative, lines 23 to 29: From about 16 years old, when I was maturing into adolescence, I noticed that while I had some sexual attraction towards beautiful teenage girls of my age, I also had sexual attractions towards some young men my age, who are muscular and well built, and whose rear anatomy appear well-rounded. This sexual urge towards other boys may not have occurred with the same degree and regularity as my attraction with those of the female gender, but when they do occur, they happen with such intensity and pull. It comes from within me, unplanned and un-designed.

Jamaica narrative, paragraph 3: At about 15 years old, when I was maturing into adolescence, I began to notice that while I had sexual attraction towards beautiful teenage girls of my age, I also had sexual attractions towards some young men my age, who are muscular and well built, and whose rear anatomy appear well-rounded. This sexual urge towards other boys may not have occurred with the same degree and regularity as my attraction with those of the female gender, but when they do occur, they happen with such intensity and pull. It comes from within me, unplanned and un-designed.

Zimbabwe narrative, lines 46 to 53: In XXX at about 15 years old, when I was maturing into adolescence, I noticed that while I had sexual attraction towards beautiful teenage girls of my age, I also had sexual attractions towards some young men my age, who are muscular and well built, and whose rear anatomy appear well-rounded. This sexual urge towards other boys may not have occurred with the same degree and regularity as my attraction with those of the female gender, but when they do occur, they happen with such intensity and pull. It comes from within me, unplanned and un-designed.

[7] The RPD identified two additional concerns. The RPD noted the Applicant's failure to amend his Basis of Claim to reflect that his wife and children were residing in Canada, and to disclose that they had made refugee claims of their own, even though the Applicant had

previously submitted a Basis of Claim amendment. The RPD also found that the Applicant's testimony concerning his alleged same-sex partner repeated the written narrative in the same order, and at times in the same language. The RPD concluded that, on a balance of probabilities, the testimony was memorized and was not spontaneous. The RPD found that these concerns weighed against the credibility of the narrative advanced.

[8] The RPD also found that the Applicant's documentary evidence, including photographs with his alleged partner and proof of membership in LGBTQ+ organizations in Toronto, did not establish, on a balance of probabilities, that the Applicant is bisexual as claimed. The RPD concluded that this evidence was insufficient to meet the burden of establishing the Applicant's asserted sexual orientation.

[9] The RPD concluded that the Applicant's narrative was fabricated. This conclusion was based primarily on the extensive similarities between the Applicant's narrative and three unrelated refugee claims, similarities the RPD described as striking and foundational to the claim advanced. The RPD further concluded that the narrative was fraudulent. On that basis, the RPD found the claim manifestly unfounded under section 107.1 of the Act.

[10] In broad strokes, the Court will consider two questions:

- 1) Whether the RPD has met the threshold of proving that the Applicant's claim is "manifestly unfounded," as required by section 107.1 of the *IRPA*; and
- 2) Whether the RPD failed to consider the evidence before it, or failed to assess the evidence.

[11] The decision is reviewable on the standard of reasonableness, as articulated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

[12] Section 107.1 of the Act provides:

**Manifestly unfounded**

**107.1** If the Refugee Protection Division rejects a claim for refugee protection, it must state in its reasons for the decision that the claim is manifestly unfounded if it is of the opinion that the claim is clearly fraudulent.

**Demande manifestement infondée**

**107.1** La Section de la protection des réfugiés fait état dans sa décision du fait que la demande est manifestement infondée si elle estime que celle-ci est clairement frauduleuse.

[13] Section 107.1 equates a manifestly unfounded claim with one that is “clearly fraudulent.” The ordinary meaning of “clearly” in this context conveys a conclusion reached without doubt, reservation, or ambiguity. This Court considered the threshold for “clearly fraudulent” in *Warsame v Canada (Minister of Citizenship and Immigration)*, 2016 FC 596 at paragraphs 30–31 [*Warsame*]:

[30] For a claim to be fraudulent, it would be required that a situation be represented of being of a certain character when it is not. But not any misstatement or falsehood would make a refugee claim fraudulent. It must be that the dishonest representations, the deceit, the falsehood, go to an important part of the refugee claim for the claim to be fraudulent, such that the determination of the claim would be influenced in a material way. It seems to me that a claim cannot be fraudulent if the dishonesty is not material concerning the determination of the claim.

[31] If the word “fraudulent” signals the need for a misrepresentation of the truth or a concealment of a material fact for the purpose of getting another party to act to its detriment, I would have thought that the word “clearly” would go to how firm the finding is. For instance, Black’s Law Dictionary (West Group, 7th Ed) defines “clearly erroneous standard” as “a judgment is reversible if the appellate court is left with the firm conviction that an error has been committed.” Similarly, clearly fraudulent would in my view signal the requirement that the decision maker has the firm conviction that refugee protection is sought through fraudulent means, such as falsehoods or dishonest conduct that go to the determination of whether or not refugee protection will be granted. Falsehoods that are merely marginal or are antecedent to the refugee claim would not qualify.

[emphasis in original]

[14] There is a high threshold for determining that a claim is manifestly unfounded: *Yuan v Canada (Citizenship and Immigration)*, 2018 FC 755 at para 45. It requires that there be a finding that some deceit or falsehood was perpetuated by the applicant: *He v Canada (Citizenship and Immigration)*, 2019 FC 2 at para 21; *Warsame* at para 31.

[15] The Applicant submits that his claim does not reasonably meet that threshold.

[16] The Applicant explains that he could not draft his narrative in English and sought assistance from a Toronto-based immigration service organization to prepare it. The Applicant says that the similarities between his narrative and three unrelated refugee claims arose because the drafter used a common template. The Applicant provided no evidence to support that assertion.

[17] The Applicant also argues that same-sex claimants would likely describe their experiences in similar terms and that any resemblance in structure or sequence is not, on its own,

proof of fabrication. In other words, the Applicant says that, if there was deceit, it was the act of a third party, not an act he knowingly adopted or deliberately perpetuated. The Applicant further submits that it was unfair for the RPD to treat the use of a template, without more, as proof that his narrative was fabricated.

[18] The Applicant submits that because a manifestly unfounded determination carries serious consequences, this context should inform the interpretation of section 107.1 of the Act. The Applicant says that such a finding must be reserved for claims that are clearly fraudulent, and that clearly fraudulent is a high threshold. He argues that where the threshold is clearly fraudulent, the fraud must be demonstrated on the record, and the reasons must explain the basis for the conclusion reached. The Applicant says that in this case the reasons do not do so, and that the conclusion was therefore unjustified.

[19] At paragraph 19 of the Applicant's memorandum of argument, he states:

The applicant submits in this case that the panel member came to a harsh determination of 'manifestly unfounded' when it could have come to a lesser outcome of not credible if indeed the similarities within the different personal narratives observed were not reasonably justified. The significance of that determination is that it deprived the applicant of an appeal to the Refugee Appeal Division and has shortened the appeal process for this claimant.

[20] I agree with the Respondent that the RPD reasonably found, on a balance of probabilities, that the Applicant's narrative was fabricated and clearly fraudulent, and thus manifestly unfounded. While the RPD noted a striking resemblance between the compared narratives, the core of its reasoning was the inconsistency between the Applicant's template explanation and his testimony that the written narrative reflected his account exactly, without alteration, and matched

word for word what he told the drafter. Given the extent of the similarities and the *verbatim* repetition, it was entirely reasonable for the RPD to conclude that the Applicant's explanation could not be reconciled with his own evidence. As cited by the Respondent, the RPD recorded the Applicant's contradictory testimony in its reasons:

The claimant was asked whether what was in his narrative was exactly what he told them, to which he responded yes. The claimant was also asked whether there were any changes between what he said to the person who assisted him and what was written, to which he responded that there were no changes. The claimant further explained that after that he took his form and narrative and went to his lawyer. He noted that when reviewing his narrative before his hearing he noticed errors in the names of some of his relatives and so he made those changes (three changes to names of relatives were the only changes made in the claimant's BoC amendment).

[...]

The claimant was again asked if everything in his narrative happened to him, to which he responded yes, and whether there was anything in his narrative he did not tell the person who typed it, to which he responded that what he told the person is what they wrote, but that some things he said about his wife were not included.

[emphasis added]

[21] The Applicant's present arguments before this Court merely repeat the same explanations that have already been expressly considered and rejected by the RPD. The Applicant effectively asks the Court to re-weigh the evidence and reach a different conclusion. That is not the Court's role on judicial review: *Vavilov* at para 125.

[22] I agree with the RPD that the narratives, when compared, demonstrate a "striking resemblance." It was entirely open for the RPD to draw a negative credibility inference from the similarities between the Applicant's narrative and the narratives of other unrelated claimants on

material facts underlying the application: *Liu v Canada (Citizenship and Immigration)*, 2023 FC 765 at paras 7–11; *Krasilov v Canada (Citizenship and Immigration)*, 2023 FC 635 at paras 19–21.

[23] The Applicant’s explanation fails to account for the similarities identified, and does not persuade the Court that his reliance on the drafter, or his asserted lack of understanding of the narrative’s contents, was the reason for the resemblance between the claims. Moreover, the suggestion that the Applicant and the comparator claimants used the same drafter, while possible, is entirely speculative.

[24] The RPD’s finding that the Applicant’s claim was clearly fraudulent, and thus manifestly unfounded, is reasonable.

[25] The Applicant further argues that the RPD failed to consider all of the evidence before it. In particular, he points to, among other evidence, photographs and documents said to show his identity as a bisexual individual and membership with LGBTQ+ organizations in Toronto. The Applicant submits that these materials were not meaningfully assessed.

[26] With respect, that argument is contradicted by the record. In its reasons, the RPD expressly considered whether, despite finding that the Applicant’s overall claim was not credible, his documentary evidence would be sufficient to establish the claim. The RPD concluded that it was not:

[23] With respect to the claimant’s participation with LGBTQ+ organizations in Canada, based on the letters submitted, the panel does find that, on a balance of probabilities, the claimant is a

member of the MCC and the 519. However, the emails provided from these organizations show that the claimant registered for events and then did not attend those events on at least one occasion. The claimant was asked about missing events he registered for; he responded that his data was not strong enough and he was outside when the notification came. The panel then noted that the email was sent approximately three hours prior to the start of the event and asked the claimant to explain his previous response; the claimant responded that he had to take his daughter to the hospital and then his network was not strong. The claimant was asked when he had to take his daughter to the hospital, but could not remember but his network was not strong. The panel finds this testimony to be evolving when confronted with contradictions. However, even were the panel to accept this explanation, the fact that the claimant engages with these community organizations does not establish that he identifies as bisexual. The Federal Court has found that “letters from organisations which are friendly to the LGBTQ community do not in themselves establish [a claimant’s] sexual orientation. Therefore, the panel does not accept that the claimant has established that it is more probable than not that he is bisexual on the basis of his self-reporting to these community organizations.

[24] With respect to the photographs with the claimant's alleged partner and his alleged partner's identification. The panel does accept that the claimant knows the person who owns the identification provided. However, there is no indication from the photographs that he and this individual were in a relationship together. These photos are therefore low probative value and are not sufficient to establish the claimant's allegations on a balance of probabilities.

[25] Based on the foregoing, the panel finds that the claimant's documentary evidence is insufficient to establish, on a balance of probabilities, that he is a bisexual man.

[27] The reasons reflect that the material relied on by the Applicant was reviewed and assessed. No reviewable error was made.

[28] For these reasons, the application must be dismissed. Neither party proposed a question be certified.

**JUDGMENT in IMM-13884-24**

**THIS COURT'S JUDGMENT is that** the application is dismissed, and no question is certified.

"Russel W. Zinn"

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Judge

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

**DOCKET:** IMM-13884-24

**STYLE OF CAUSE:** OBINNA NWAOKONKO v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

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