

Federal Court



Cour fédérale

Date: 20260204

Docket: IMM-19025-24

Citation: 2026 FC 156

Toronto, Ontario, February 4, 2026

PRESENT: The Honourable Justice Thorne

BETWEEN:

IRVING RAMON LARA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of a decision of the Refugee Appeal Division [RAD], which had agreed with the conclusion of the Refugee Protection Division [RPD], that the Applicant was not a Convention refugee or person in need of protection pursuant to sections 96 or 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 [Act]. In particular, the RAD had determined that the RPD had erred in excluding the Applicant under Article 1F(b) of the *1951 United Nations Convention Relating to the Status of Refugees*, 28 July 1951, 189 UNTS

137 [*Refugee Convention*] as reflected in Canadian law in section 98 of the Act. However, the RAD held that, even taking this into account, the Applicant still did not qualify for asylum in Canada as a Convention refugee or person in need of protection. This was because the RAD determined that the Applicant's allegations as to his persecution lacked credibility, and this was sufficient to dispose of the claim. The Applicant alleges that the RAD's decision [Decision] was unreasonable because the RAD failed to undertake an independent assessment of the objective evidence, erred in its assessment of credibility and had failed to refer the matter back to the RPD for a new hearing.

[2] For the following reasons, this application is dismissed. I find the Applicant has not established that the Decision is unreasonable.

II. Background

[3] The Applicant is a citizen of the Dominican Republic. He alleges that he fears persecution in that country due to his political opinion, as he had joined the *Marcha Verde* [Green March] Movement and participated in marches against government corruption. He states that these actions caused him to be targeted by the authorities and their supporters.

[4] Before the RPD, the Minister intervened with written submissions on issues of credibility and exclusion under Article 1F(b) of the *Refugee Convention*. The RPD found that the Applicant's allegations contained significant credibility concerns and ultimately held that the Applicant did not qualify as a refugee in Canada, as they were further excluded pursuant to Article 1F(b) and section 98 of the Act. In particular, the RPD found that a past conviction in the

United States relating to identity fraud and use of a false passport constituted evidence that the Applicant had committed a serious non-political crime sufficient to satisfy Article 1F(b).

[5] Upon appeal, the RAD found that the RPD had erred in its Article 1F(b) determination. It noted that the Applicant was only given a four-month custodial sentence in the United States before being deported. It further determined that the RPD overlooked similar fact jurisprudence which indicated the Applicant's likely sentence for such a crime in Canada would have been two years or less. The RAD therefore concluded that the RPD had erred in finding that the Applicant had committed a serious non-political crime warranting exclusion pursuant to Article 1F(b).

[6] However, the RAD held that, despite this, the Applicant still did not qualify as a Convention refugee nor a person in need of protection. This was because the RAD found that his central allegations were undermined by serious credibility concerns, which led it to hold that there was insufficient credible evidence upon which to determine that he faced a serious possibility of persecution or, on balance of probabilities, a section 97 risk.

III. Issue

[7] The sole issue at play in this matter is whether the decision under review is reasonable.

[8] In this respect, the role of a reviewing court is to examine the decision maker's reasoning and determine whether the decision is based on an "internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 85; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64). Although the party

challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100), the reviewing court must assess “whether the decision bears the hallmarks of reasonableness, justification, transparency and intelligibility” (*Vavilov* at para 99).

IV. Legal Framework

[9] A person claiming refugee status pursuant to section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] must meet the applicable legal test to establish that there is a “serious possibility” or “reasonable chance” of persecution in the event of a return to the country they have fled. In particular, they must establish, on balance of probabilities, that they have a subjective fear of persecution on the basis of race, religion, nationality, membership in a social group or political opinion, and that objectively this fear of persecution is well-founded. The claimant must demonstrate that there is a serious chance that persecution will occur (*Adjei v Canada (Minister of Employment and Immigration)*, 1989 CanLII 9466 (FCA), [1989] 2 FC 680).

[10] In order to establish that one is a person in need of protection pursuant to subsection 97(1) of the Act, the claimant must establish that, on a balance of probabilities, they would be personally subject to a danger of torture or a risk to their life or of cruel and unusual treatment or punishment, were they to return to their country of origin. This is an objective test administered in the context of “*present or prospective risk for the claimant*” (*Sanchez v Canada (Citizenship and Immigration)*, 2007 FCA 99 [*Sanchez*] at paras 14-15, emphasis in original).

[11] Article 1F(b) of the *Refugee Convention* is an exclusionary provision incorporated through subsection 2(1) and reflected in section 98 of the Act. Pursuant to this Article, the

Refugee Convention does not apply to a person to whom there are “serious reasons for considering that” “he [sic] has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee”.

[12] The Court has been clear in establishing that deference is owed to the RAD with respect to the assessment of credibility (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1106 at para 19; *Aldaher v Canada (Citizenship and Immigration)*, 2021 FC 1375 at para 23; *Sary v Canada (Citizenship and Immigration)*, 2016 FC 178 at para 23 [*Sary*]). As Justice Gascon noted in *Sary*, “[c]redibility issues are one of the RAD’s core competencies” (at para 23, citing *Pepaj v Canada (Minister of Citizenship and Immigration)*, 2014 FC 938 at para 13). A finding that a claimant is not credible may be sufficient to conclude that they are neither a refugee nor a person in need of protection (*Guadarrama Vazquez v Canada (Citizenship and Immigration)*, 2024 FC 462 at para 24 citing *Kaur v Canada (Citizenship and Immigration)*, 2012 FC 1379 at paras 48 to 51, [2014] 2 FCR 3; *Matsika v Canada (Citizenship and Immigration)*, 2019 FC 602 at para 23; *Labana v Canada (Citizenship and Immigration)*, 2022 FC 414 at para 20; *Pedro v Canada (Citizenship and Immigration)*, 2022 FC 1575 at para 14).

[13] Section 110 of the Act governs RAD appeals from decisions of the Refugee Protection Division. Though the RAD may, at its discretion, hold a hearing where new documentary evidence is introduced that meets three criteria set out in subsection 110(6), under subsection 110(3), the RAD generally determines appeals without a hearing, relying on the RPD record and written submissions. The RAD is not obliged to exercise its discretion to hold a hearing even if the three criteria of subsection 110(6) are met, but must exercise that discretion reasonably in the

circumstances of the case (*Zhuo v Canada (Citizenship and Immigration)*, 2015 FC 911 [*Zhuo*] at para 11; *Singh v Canada (Citizenship and Immigration)*, 2025 FC 1389 at para 11).

[14] Under the Act, the RAD may refer a matter back to the RPD for redetermination (para 111(1)(c)), though this is not routinely done. Pursuant to paras 111(2)(a) and (b), there are two prerequisites to the exercise of discretion to refer the matter back to the RPD: (a) the decision of the RPD must be “wrong in law, in fact or in mixed law and fact” and (b) the RAD “cannot make a decision under para 111(1)(a) or (b) without hearing evidence that was presented to the Refugee Protection Division”. This provision was interpreted by the Federal Court of Appeal in *Huruglica v Canada (Citizenship and Immigration)*, 2016 FCA 93 at para 103, which confirmed that the RAD has “robust powers of error-correction” and that “it is only when the RAD is of the opinion that it cannot provide such a final determination [in para 111(1)(b)] without hearing the oral evidence presented to the RPD that the matter can be referred back to the RPD for redetermination” (at para 103)

V. Analysis

A. *It has not been established that the RAD Decision was unreasonable*

[15] For the reasons that follow, I cannot find the Decision to be unreasonable and I dismiss this application for judicial review. The Applicant has failed to establish any reviewable errors.

[16] The Applicant raises two central arguments. First, they state that the RAD erred by failing to refer the matter back to the RPD for a hearing, once it had determined that the RPD had erred in holding that the Applicant was excluded under Article 1F(b). The Applicant submits that

the credibility inference drawn by the RPD was “inextricably tied” to its exclusion finding under Article 1F(b) of the *Refugee Convention*, that the RAD’s Article 1F(b) finding thus calls into question the reasonableness of the RPD’s credibility findings, and that the RAD therefore erred in relying on the RPD’s credibility findings. They further assert that the RPD’s erroneous finding vis-à-vis exclusion denied the Applicant a fair hearing, and that as a result it was an error for the RAD not to refer the claim back for redetermination upon finding that the RPD erred in its 1F(b) exclusion analysis.

[17] The Respondent asserts that, in this argument, the Applicant is suggesting that the RAD ought not to have conducted its own independent assessment and was instead required to refer the matter back for redetermination. The Respondent notes that counsel for the Applicant fails to cite any case law in support of this contention, and nor do they explain why the Applicant would have been entitled to an additional hearing before the RAD (a notion that oddly appears in the Applicant’s Notice of Application, but not in their Further Memorandum of Argument or application record). The Respondent further notes that the Applicant does not point to any specific errors in the RAD’s credibility assessment or, for that matter, explain why the serious inconsistency in his testimony underlying the RAD’s credibility determination ought to be overlooked. In its written materials, the Respondent also submits that the Applicant fails to provide case law in support of the contention that an oral hearing before the RAD was required, pointing out that pursuant to subsection 110(6) of the Act, the RAD may generally only convene an oral hearing where there has been new documentary evidence accepted by the RAD. They note that no such evidence has been submitted by the Applicant.

[18] The Applicant secondly argues that the RAD erred in its assessment of credibility and failed to undertake an independent assessment of the objective evidence. In their written materials, counsel for the Applicant essentially states that the discrepancy in the evidence that led the RPD to find that the Applicant's credibility was fatally undermined was merely a "minor detail [...] and therefore something the RPO [sic] should not have expected him to repeat in his oral testimony". The Applicant further argues that the RAD failed to consider the country condition evidence that had been submitted, and thus erred when it found that the negative credibility inference it drew due to the evidentiary discrepancy was sufficient to undermine the credibility of the Applicant's allegations. Finally, the Applicant contends that the RAD failed to undertake an independent assessment of the available evidence, but rather "shirked its responsibility" by deferring to the credibility findings of the RPD.

[19] In response, the Respondent asserts that the Applicant's arguments are wholly without merit. They note that the Applicant argues that the RAD failed to conduct an independent assessment of the evidence, but then fails to identify or explain which portions of the objective evidence it believes were overlooked by the RAD. They assert that the Applicant seems to suggest that the country condition objective evidence can overcome the inconsistencies in his evidence and testimony, yet does not explain how this is and also fails to draw connections from the cited portions of the objective evidence to the claim. The Respondent further points out that the Applicant appears to simultaneously argue that the RAD failed to conduct its own investigation, yet quotes portions of the Decision in which the RAD Panel explicitly did so. In the Respondent's view, the Applicant has failed to identify any error with the Panel's reasoning and is, in reality, merely challenging the weight assigned to his evidence.

[20] Upon review of the evidence and submissions of the parties in this matter, I do not find the arguments of counsel for the Applicant to be persuasive, and I have little difficulty in finding that the Applicant has not established the Decision of the RAD to be unreasonable.

[21] The Applicant's first argument appears to be that since the RAD found that the RPD had erred in its Article 1F(b) analysis, incorrectly finding that the Applicant was excluded from Canada due to having committed serious non-political crimes, then the RAD should have referred the matter back to the RPD in order for a new hearing to be held before that body. The Applicant states that in failing to do so, the RAD erred and rendered its Decision unreasonable. As the Respondent has noted, the Applicant provides no relevant jurisprudence or authority in support of this contention, and nor does he or his counsel provide any explanation of why he should be entitled to another hearing before the RPD, beyond blithely saying that the RPD's erroneous exclusion finding denied the Applicant a fair hearing, and so a new hearing should be held. No explanation has been provided as to how the exclusion finding denied the Applicant a fair hearing. Incidentally, I note that the jurisprudence relied on by the Applicant for the right to a fair hearing is a citation of *Cardinal v Director of Kent Institution*, 1985 CanLII 23 (SCC), [1985] 2 SCR 643 in *Chalal v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 345 [*Chalal*]. In *Chalal*, the Court granted the application for judicial review as the refugee claim tribunal failed to disclose a report to the claimant until the beginning of their hearing and then proceeded to rely on this report in rendering its decision. The Court in that matter found that, as a result, the Applicant in *Chalal* was denied a fair hearing. These circumstances are wholly unlike the matter now before this Court.

[22] I also note that this demand by the Applicant that a second RPD hearing should have been required seemingly repudiates the role of the RAD, which, unlike the Court, need not generally refer matters back to RPD. Instead, the RAD is empowered to conduct its own independent assessment, reweighing the evidence presented before the RPD and reaching its own determination as to the asylum status of the Applicant (*Huruglica* at paras 56, 58-59, 78, 98, and 103; *Alvarenga Torres v Canada (Citizenship and Immigration)*, 2021 FC 549 at paras 37-39). The RAD having done so, rather than referring the matter back to the RPD, is not an error and does not render its Decision unreasonable. I note that while relatively rarely done, the RAD certainly can decide to refer matters back to the RPD for redetermination – usually where it is unable to confirm the RPD decision or set it aside and substitute its own decision without hearing evidence that was presented to the RPD – however, no arguments have been made by the Applicant as to why this was necessary in this case.

[23] As noted, while it is not entirely clear from the submissions of the Applicant, it does not appear as if they are arguing that the RAD erred by failing to itself hold an oral hearing. Instead, the thrust of the Applicant's argument was rather that the matter should have been referred to the RPD for a fresh hearing. However, to be comprehensive, I note that with respect to the notion that a RAD oral hearing should have been held, the Respondent is correct that pursuant to subsections 110(3) and 110(6) of the Act, the RAD may only convene an oral hearing where there has been new documentary evidence accepted by the RAD which warrants doing so. In this case, the Applicant did not request a RAD oral hearing and nor did he seek introduce any such new documentary evidence.

[24] The second argument of the Applicant casts the RAD Decision as unreasonable because, in the Applicant's view, the RAD erred in its assessment of his credibility. In this regard, the Applicant first contends that the RPD's credibility findings cannot be separated from its exclusion analysis and that the RAD erred in adopting or relying on the RPD's credibility findings. Here, I first note that counsel for the Applicant has also provided little explanation as to how the credibility inference drawn by the RPD was "inextricably tied" to its exclusion finding, much less how that finding calls into question the reasonableness of the RAD's credibility findings. Indeed, upon analysis of the Decision, the credibility finding in question appears to be wholly distinct from the exclusion concerns.

[25] I note that it may be that the Applicant's notion of the unexplained link between the exclusion finding and credibility is drawn from a single sentence in the RPD Decision which reads "I find that the issue of credibility is linked to the exclusion under Article 1F(b) of the Refugee Convention". If this is the case, this would appear to be a misreading of that passage, which simply indicates that there are other credibility issues that accompany the facts that led to the exclusion finding. In the hearing, counsel for the Applicant argued that the meaning of this passage was not clear and urged the Court to find a link between the exclusion and credibility findings. Counsel for the Respondent pointed out that it is the RAD Decision that is at issue in this judicial review, not the RPD decision, and that RAD decisions can cure errors in the RPD decisions they review. Respondent's counsel then also noted that, in any event, a contextual reading of the RPD decision, and particularly the paragraphs following the impugned sentence, establish that the RPD's exclusion analysis was indeed distinct from its other credibility analysis. They assert this indicates that the Applicant's interpretation of that sentence was acontextual and problematic. I agree.

[26] In any event, a review of the RAD Decision establishes that the RAD did not “shirk its responsibility” by simply blindly relying on or adopting the finding of the RPD that the discrepancy in the Applicant’s evidence as to what incident had particularly prompted him to flee the Dominican Republic for Canada undermined his credibility. Rather, such a review of the Decision establishes that the RAD analyzed this evidence and came to the same conclusion as the RPD, as it was entitled to do. The issue identified by both the RAD and the RPD was an inconsistency between the Applicant’s Basis of Claim [BOC] narrative and his testimony. The Applicant testified that he had fled the Dominican Republic for Canada because he began to receive threatening calls, in contrast to his BOC narrative in which he recorded that he had rather fled after he was physically assaulted by the agents of harm. In the RAD’s determination, this discrepancy, where the Applicant’s testimony completely omitted the central incident in his BOC narrative, fatally undermined his credibility. In addition, the RAD found the Applicant’s explanation that he had forgotten this incident was not reasonable.

[27] From this, it is evident that the RAD engaged in an independent analysis and drew its own conclusion. Clearly, this conclusion was not to the liking of the Applicant, who now argues that the credibility discrepancy was a “minor detail [...] and therefore something the RPO [sic] should not have expected him to repeat in his oral testimony”. I cannot agree with the characterization of this as a minor detail. However, regardless, it is simply not accurate to claim that the RAD had merely adopted the credibility findings of the RPD. Most importantly, it is also not the role of the Court to reweigh the evidence presented before the RAD, but rather to consider whether its decision reached was reasonable (*Vavilov* at paras 125-126). While I agree that not every decisionmaker might have concluded that the noted disparity was sufficient to fatally undermine the Applicant’s overall credibility, given the primacy of that incident and the

RAD's explanation as to why it was key, I find the RAD's logic in this regard to be at least discernable, and I do not find that Decision to be unreasonable (*Vavilov* at para 102-103).

[28] Finally, the Applicant argues that the RAD failed to consider the country condition evidence submitted and this also caused it to err, when it determined that the negative credibility inference it drew due to the evidentiary discrepancy was sufficient to undermine the credibility of the Applicant's allegations. As the Respondent pointed out, beyond baldly making this assertion the Applicant did not specifically explain how the submitted country condition evidence about the Green March should have impacted the RAD's evidentiary assessment. But in any event, it was again clearly inaccurate to claim that the RAD failed to consider the country condition evidence, as the RAD specifically mentioned that same evidence, noting that the credibility of the Applicant had been further undermined by his utter lack of supporting documentation, apart from the submission of this general country documentation.

[29] In short, and at best, in their arguments Applicant and his counsel are merely asking this Court to reweigh and reassess the evidence that was before the RAD. While I can appreciate that the Applicant has a different perspective on how the information before the RPD and RAD should have been considered, this effort to have the Court re-evaluate the evidence does not correspond with its role on judicial review, as I have mentioned. The RAD did not disregard or ignore evidence or somehow err by not referring the matter back to the RPD, rather than conducting its own independent assessment. Rather, the Applicant simply disagrees with the way the RAD weighed the evidence and is essentially asking this Court to also do so and to step in to displace the RAD's findings with its own. That is not the role of this Court on judicial review

(*Vavilov* at para 125; *Chi v Canada (Citizenship and Immigration)*, 2022 FC 1547 at para 27 citing *Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3).

[30] The burden is on the Applicant to show that the Decision is unreasonable by establishing that there are sufficiently serious shortcomings in the Decision such that it could not be said to exhibit the requisite degree of justification, intelligibility and transparency (*Vavilov* at para 100). Having considered the evidence on the record and the submission of the parties, I am not satisfied this burden has been met. I do not find the Decision to be unreasonable.

VI. Conclusion

[31] This application for judicial review is dismissed. The parties proposed no question for certification, and I agree that none arises.

JUDGMENT in IMM-19025-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.
3. No costs are awarded.

“Darren R. Thorne”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-19025-24
STYLE OF CAUSE: IRVING RAMON LARA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING: VIDEOCONFERENCE
DATE OF HEARING: JANUARY 14, 2026
JUDGMENT AND REASONS: THORNE J.
DATED: FEBRUARY 4, 2026

APPEARANCES:

Andrew Boogaard

FOR THE APPLICANT

Pavel Filatov

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lee & Company
Immigration Advocacy
Counsel & Litigation
Toronto, Ontario

FOR THE APPLICANT

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT