

Federal Court



Cour fédérale

Date: 20260213

Docket: IMM-20848-24

Citation: 2026 FC 214

Ottawa, Ontario, February 13, 2026

PRESENT: Mr. Justice McHaffie

BETWEEN:

**NICOLLE LAVONNE JAMES
RAEYON J'L COLGAN QUASHIE
RAYNN AMIYA CIARRA QUASHIE**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Nicolle James sought refugee protection from gender-based violence inflicted by a former partner in Trinidad and Tobago. The Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada [IRB] found that Ms. James was not a Convention refugee or a person in need of protection within the meaning of sections 96 and 97 of the *Immigration and*

Refugee Protection Act, SC 2001, c 27 [IRPA] since she could avail herself of the protection offered by the state in Trinidad and Tobago. The RAD also raised concerns about the credibility of aspects of Ms. James's narrative.

[2] On this application for judicial review, Ms. James contends that the RAD's decision was unreasonable, challenging both the RAD's credibility findings and its conclusion that she had not rebutted the presumption that adequate state protection was available.

[3] Having considered the RAD's decision, the evidence and Ms. James's arguments, I conclude the decision was reasonable. The RAD applied the relevant legal framework to the available evidence, which it assessed in a reasonable fashion. Contrary to Ms. James's arguments, the RAD did not engage in a microscopic review of credibility issues, nor fail to assess whether state protection efforts in Trinidad and Tobago had resulted in adequate protection at an operational level.

[4] The application for judicial review is therefore dismissed.

II. Issues and Standard of Review

[5] Ms. James raises the following issues on this application:

A. Did the RAD err in its credibility assessments?

B. Did the RAD err in assessing the availability of state protection in Trinidad and Tobago?

[6] The parties agree that each of these issues is subject to review on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Burai v Canada (Citizenship and Immigration)*, 2020 FC 966 at para 17.

[7] When applying this standard, the Court does not undertake its own assessment of the evidence or the issues to reach its own conclusions. Rather, it reviews the RAD’s decision in light of the record to ensure that it meets the requirements of a reasonable decision: *Vavilov* at paras 82–86, 91–94, 103, 125–128. A reasonable decision is one that is internally coherent and is transparent, intelligible, and justified in relation to the constellation of law and facts that are relevant to it: *Vavilov* at paras 15, 95–96, 99–102, 105. To establish that the RAD’s decision is unreasonable, an applicant has the burden to show that it demonstrates shortcomings that are sufficiently central or significant to render it unreasonable: *Vavilov* at para 100.

III. Analysis

A. *The RAD’s credibility findings were reasonable*

(1) The challenged findings

[8] The RAD highlighted three concerns about Ms. James’s evidence: (i) she had difficulties recalling the events in Trinidad and Tobago that led her to seek protection, and in recalling when she had moved to certain locations; (ii) she provided inconsistent evidence regarding her relationships with her former abusive partner, named George, and an earlier partner who is the father of her children (the two other applicants); and (iii) she gave changing testimony regarding

when she last saw George before coming to Canada. The RAD also noted the absence of evidence to corroborate Ms. James's assertion that George was politically connected.

[9] Ms. James accepts that she had difficulty in recalling incidents during her refugee hearing, but attributes it to the effects of both the trauma of abuse and the chemotherapy treatments that she received during the period relevant to her claim. She argues that the RAD failed to provide a full assessment of her credibility based on these special circumstances and unreasonably relied on a lack of corroborative evidence. She claims the RAD's reasons violated several fundamental principles established in the jurisprudence regarding assessments of credibility in refugee law: (i) that refugee claimants are presumed to be telling the truth; (ii) that a refugee hearing is not a memory test; (iii) that testimony should not be rejected solely because of a lack of corroborative evidence; and (iv) that adverse credibility findings should not be made based on a microscopic examination of the evidence or a zeal to find instances of contradiction: *Maldonado v Minister of Employment and Immigration*, 1979 CanLII 4098, [1980] 2 FC 302 (CA) at p 305; *Sheikh v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 15200 (FC) at paras 23–24, 28; *Poshteh v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1034 at para 7; *Ahortor v Canada (Minister of Employment & Immigration)*, 1993 CanLII 17650, 21 Imm LR (2d) 39 (FC) at paras 45, 50.

(2) The credibility findings are reasonable

[10] A review of the RAD's reasons for decision in light of the record before it shows that it did not engage in a microscopic analysis of the evidence or display an excessive zeal in seizing on minor or peripheral inconsistencies. Ms. James's inability to provide a clear and consistent

account of central aspects of her narrative, including her relationship with the man said to be the source of her fear, and when she last saw him, was a reasonable basis on which to question the credibility of her claim. As the Minister points out, the inconsistencies included two starkly different accounts of (i) what led her to leave Trinidad and Tobago for Canada, and (ii) whether she had had any contact with George in the years before she left. These are matters central to Ms. James's claim, and the RAD's reliance on these inconsistencies does not show a microscopic analysis.

[11] Nor does the principle that a refugee hearing is not a "memory test" absolve a claimant from having to present a consistent account of their narrative. While a claimant may not be expected to recall every specific date or detail of what happened to them, it is reasonable to expect them to recall, for example, whether they had contact with their agent of persecution in the three years prior to their departure, and to present consistent evidence on such a point. This is not a "trivial discrepancy," as Ms. James contends.

[12] Identifying such inconsistencies does not transgress the principle that refugee claimants are presumed to tell the truth. Indeed, that principle is expressly stated as being a presumption that the claimant is telling the truth "unless there be reason to doubt their truthfulness": *Maldonado* at p 305. Where a claimant's evidence has material and unexplained inconsistencies, there is reason to doubt its truthfulness and the presumption is rebutted: *Lunda v Canada (Citizenship and Immigration)*, 2020 FC 704 at para 29; *Akbar v Canada (Citizenship and Immigration)*, 2023 FC 1101 at para 41. Corroborative documents may help establish a claimant's narrative despite such inconsistencies. However, Ms. James presented no such

evidence, as the RAD noted. This is therefore not a case in which the RAD simply made adverse credibility findings solely due to an absence of corroboration.

[13] It was also reasonable for the RAD to find that Ms. James had not established that George was in fact politically connected. The RAD reasonably held that the presumption of truthfulness might establish that Ms. James *believed* George to be well-connected, but that it did not establish that he *actually* was. In the absence of any other evidence to support this contention, it was reasonable for the RAD not to accept Ms. James's bare statement in this regard.

[14] I therefore conclude that the RAD's findings with respect to Ms. James's credibility were reasonable. That said, it is worth noting that the RAD only relied on certain aspects of these findings in reaching its conclusions on state protection, such that those conclusions are largely independent of its credibility findings. In particular, as the Minister acknowledges, the RAD appears to have accepted that Ms. James was the victim of domestic violence at the hands of George. It therefore appears not to have wholly disbelieved her evidence. However, in considering the issue of state protection, the RAD observed that (i) Ms. James had not established that George had political influence that interfered with the enforcement of the restraining orders; and (ii) her contact with George during the time when those orders were in place was "minimal." These observations flow from the RAD's factual findings based on the evidence and its assessment of Ms. James's credibility, which are reasonable.

B. *The RAD's state protection analysis is reasonable*

(1) The legal framework

[15] Refugee protection in Canada is a form of surrogate protection, provided when a claimant's own state is either itself the source of risk or where that state is unable or unwilling to protect the claimant from risk: *Canada (Attorney General) v Ward*, 1993 CanLII 105, [1993] 2 SCR 689 at pp 709, 752; *Hinzman v Canada (Citizenship and Immigration)*, 2007 FCA 171 at para 41. Other than in situations of "complete breakdown" of the state apparatus, it is presumed that a state is capable of protecting its citizens: *Ward* at p 725. A claimant may rebut this presumption by providing evidence sufficient to demonstrate, on a balance of probabilities, that the state protection available to them in their country of nationality is inadequate: *Flores Carrillo v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94 at paras 1, 17–20, 24–30, 38; *Ward* at pp 724–725.

[16] The assessment of whether state protection is "adequate" must take place at a practical or operational level, rather than simply an aspirational one. In other words, a country's efforts to protect its citizens are not themselves sufficient to show that protection is adequate if those efforts have not resulted in actual operational adequacy: *Burai* at para 25; *Hercegi v Canada (Citizenship and Immigration)*, 2012 FC 250 at para 5. At the same time, the relevant standard is that of "adequate" state protection, not ideal or perfect state protection. The law recognizes that a state will not invariably be able to protect all of its citizens and that isolated examples of failures of protection will not alone displace the presumption: *Canada (Minister of Employment and Immigration) v Villafranca*, 1992 CanLII 8569 (FCA) at para 7; *Burai* at para 24; *Lesi v Canada*

(*Citizenship and Immigration*), 2016 FC 441 at para 47; *Navarro Serrate v Canada (Citizenship and Immigration)*, 2025 FC 1293 at para 19.

(2) The RAD's analysis

[17] The RAD referred to the foregoing principles regarding state protection, citing the Supreme Court of Canada's decision in *Ward* and a number of the cases referred to above. It noted that the country condition evidence shows that Trinidad and Tobago is a stable democracy in effective control of its borders and security forces, and that the evidence did not suggest a breakdown of the state apparatus. It considered in particular the evidence of state protection provided to victims of domestic violence, referring both to the relevant legislation and the evidence regarding the operational effectiveness of the police and justice system in domestic violence cases.

[18] The RAD went on to consider the evidence regarding Ms. James's own involvement with the state protection apparatus, concluding that it showed state protection had been operationally effective. It noted that Ms. James had sought and obtained a restraining order against George, which had been renewed twice, and that the police had pursued George when he contravened the order, causing him to flee Tobago to his parents' home in Trinidad. The RAD accepted that this result fell short of the enforcement options available to the police, but found that it did not support Ms. James's claim that the police did nothing. The RAD further noted that Ms. James's testimony suggested that her contact with George was minimal while the restraining orders were in place, indicating that the police's actions were adequate.

[19] As noted above, the RAD rejected Ms. James's contention that George had political influence resulting in police not enforcing the restraining orders. Conversely, it referred to Ms. James's own relationships with the police—she had friends in the police force and she was a member of the local police station council—noting that these connections had provided her with additional support and could do so again in the future. Finally, the RAD noted a number of new initiatives that had been implemented in Trinidad and Tobago since Ms. James left the country in 2019.

[20] Having reviewed this evidence, the RAD concluded that Ms. James had not rebutted the presumption of state protection.

(3) The RAD's analysis is reasonable

[21] Ms. James does not contend that the RAD misstated the applicable test for state protection. Rather, she contends that the RAD engaged in a selective review of the objective documentary evidence on the issue and failed to take adequate account of both that evidence and her evidence. She cites passages from that evidence regarding high rates of domestic violence and laxity in the enforcement of domestic violence laws. She contends that this evidence and her evidence that George continued to harass and threaten her show that state protection was inadequate and that the RAD failed to assess the actual results of the police's efforts.

[22] I am not persuaded. The RAD expressly referred to the evidence regarding the extent of domestic violence and the concerns about the effectiveness of the police and justice system. However, it found on balance that the evidence—including Ms. James's evidence of her own

experiences with the police—indicated that the state protection available to protect her from George was operationally adequate. In this regard, Ms. James’s submission that George continued harassing and threatening her to an extent that demonstrated the inadequacy of police protection is inconsistent with the RAD’s factual finding, based on its assessment of her evidence, that she had had minimal interaction with him while the restraining orders were in place. Further, as Ms. James herself noted in her narrative and in her submissions to the Court, the police responded on the occasions when George failed to comply with the order.

[23] Reviewing the RAD’s reasons, I cannot accept Ms. James’s submission that the RAD did not give meaningful consideration to the outcome of the police’s efforts. To the contrary, it directly assessed the results of the police’s actions in pursuing George when Ms. James reported a breach of the restraining order, as well as another incident in which the police arrived after an assault. Overall, I find that Ms. James’s arguments largely amount to a request that this Court reassess and reweigh both the objective country condition evidence and her own evidence regarding her interactions with the police to reach a different conclusion regarding the adequacy of state protection. This is not the Court’s role on judicial review: *Vavilov* at paras 83, 125.

IV. Conclusion

[24] The RAD adequately explained its conclusions with reference to the evidence and the law, and its conclusions as to both credibility and state protection were open to it on the record before it. The RAD’s decision shows the coherence, transparency, intelligibility, and justification required of a reasonable decision and there is no basis for this Court to interfere. The application for judicial review must therefore be dismissed.

[25] Neither party proposed a question for certification pursuant to paragraph 74(d) of the *IRPA*. I agree that no serious question of general importance is raised in the matter. No question is certified.

JUDGMENT IN IMM-20848-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-20848-24

STYLE OF CAUSE: NICOLLE LAVONNE JAMES ET AL v THE MINISTER
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