

Federal Court



Cour fédérale

Date: 20260410

Docket: IMM-3001-25

Citation: 2026 FC 476

Ottawa, Ontario, April 10, 2026

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

GETU FANTAHUN ASRAT

Applicant

and

**THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of the Refugee Protection Division [RPD]’s decision granting the Minister of Public Safety and Emergency Preparedness’s application for cessation of the Applicant’s refugee status under paragraph 108(1)(a) of the *Immigration and Refugee*

Protection Act, SC 2001, c 27. The RPD found that the Applicant had reavailed herself of the diplomatic protection of Ethiopia by returning on two separate occasions.

[2] I am allowing the application because the RPD erred in assessing the voluntariness of the Applicant's trips to Ethiopia. As such, there is no need to consider the other alleged errors raised by the Applicant.

II. Analysis

[3] The legal test for reavailment has three conjunctive requirements: (i) the refugee must have acted voluntarily; (ii) the refugee must have intended to reavail themselves of their country of nationality's protection; and (iii) the refugee must have actually obtained that nation's protection: *Canada (Citizenship and Immigration) v Galindo Camayo*, 2022 FCA 50 at para 18 [*Galindo Camayo*].

[4] Here, the Applicant argued that she did not act voluntarily as she had renewed her Ethiopian passport in January 2020 for "emergency" purposes because one of her sisters was "critically ill": Partial transcript of the RPD hearing, Applicant's Record [AR] at 153. She returned to Ethiopia in August 2022 for 40 days, and again in October 2023 for approximately one month. Each time, the Applicant returned to care for her sister while she was hospitalized.

[5] The RPD acknowledged that "the Federal Court of Appeal referred to the serious illness of a family member as a 'compelling reason'": Reasons and Decision of the Refugee Protection Division dated March 17, 2025 [RPD Decision] at para 16, CTR at 7; see also: *Galindo Camayo*

at para 84. However, it determined that, in this case, the Applicant's returns were voluntary. In my view, the RPD made two errors in assessing voluntariness.

[6] First, the RPD made an adverse credibility finding concerning the Applicant's first trip to Ethiopia. The RPD noted that the Applicant purchased round-trip tickets in June 2022, one month before her sister was hospitalized in July 2022. However, the Applicant testified that she had not planned on returning to Ethiopia if her sister was not hospitalized. The RPD determined that "this answer is not credible in light of the timeline of events": RPD Decision at para 18, CTR at 8.

[7] I agree with the Applicant that this negative credibility finding was made without proper regard to her testimony. The Applicant was only squarely questioned once about the timing of her ticket purchase. Earlier in the RPD hearing, when asked why she travelled years after renewing her passport, the Applicant explained that her sister's health had been deteriorating and that this deterioration ultimately led to her hospitalization. The Applicant did not testify that the hospitalization itself prompted the purchase of her ticket; rather, she explained that her purpose of travel was her sister's serious illness, which caused her to "fear that something might happen": Partial transcript of the RPD hearing, AR at 154.

[8] When later asked directly why she purchased her ticket in June 2022, the Applicant testified that the decision was prompted by her sister being taken for holy water treatment. This was the only trigger she identified for purchasing her ticket: Partial transcript of the RPD hearing, AR at 157–158. Read as a whole, the Applicant's testimony does not support the RPD's conclusion that her explanation was inconsistent with the timeline of events.

[9] Furthermore, the Applicant's testimony was consistent with her explanation as to why she renewed her passport in January 2020, which was entirely because she wanted to be available if there was an emergency regarding her sister's health after being told that her sister was "critically ill": Partial transcript of the RPD hearing, AR at 153. The RPD, however, failed to consider this testimony in making its adverse credibility finding about the Applicant's timeline of events.

[10] Second, the RPD concluded that the Applicant "was not her sister's primary caregiver, there were clearly others available to help her sister, including her brother, friends, and hired help" [emphasis added]: RPD Decision at para 20, CTR at 8. This unequivocal conclusion, however, is contradicted by the Applicant's evidence. The Applicant testified that, on both visits, she stayed with her sister at the hospital (day and night) and provided her care, including feeding, bathing, and grooming her: Partial transcript of the RPD hearing, AR at 159–160.

[11] The Applicant also explained that these responsibilities fell on her because her parents are deceased, and her other siblings were unable to provide the same level of in-hospital care. The Applicant's brother works and has a family, and, during her second visit, he was away for work for over two weeks of their sister's hospitalization. As for the other siblings, one of the Applicant's sisters resides in Sweden and was unable to travel to Ethiopia, while the other sister residing in Ethiopia is immobile: Partial transcript of the RPD hearing, AR at 158–160, 178–179.

[12] To the extent that her brother was able to visit, or that the Applicant's friends provided any assistance during her sister's hospitalization, they only played supporting roles and visited sporadically: Partial transcript of the RPD hearing, AR at 171–172, 178.

[13] Furthermore, the RPD's reliance on *Zhou v Canada (Citizenship and Immigration)*, 2024 FC 895 [*Zhou*] is misplaced. In that case, the applicant did not dispute the RPD's finding that he was not his grandmother's primary caregiver and that there were others who were already caring for her at the time of his visit: *Zhou* at para 24. Here, in contrast, the Applicant asserts that she was, in fact, her sister's primary caregiver during the two hospitalizations.

[14] Consequently, in finding that the Applicant was not the primary caregiver as there were "clearly" others available to help her sister while hospitalized, the RPD failed to account for the evidence before it. This failure renders the RPD's decision unreasonable: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 126.

[15] For these reasons, the application for judicial review is allowed. The RPD's decision is set aside, and the matter is returned to the RPD for determination by another member.

[16] The parties did not propose a question for certification and, I agree that none arises in this case.

JUDGMENT in IMM-3001-25

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is allowed.
2. The Refugee Protection Division’s decision dated January 22, 2025, is set aside and the matter is remitted for determination by a differently constituted panel.
3. No question is certified for appeal.

“Anne M. Turley”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3001-25

STYLE OF CAUSE: GETU FANTAHUN ASRAT v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: MARCH 25, 2026

JUDGMENT AND REASONS: TURLEY J.

DATED: APRIL 10, 2026

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