

Federal Court



Cour fédérale

Date: 20260402

Docket: IMM-16998-24

Citation: 2026 FC 440

Ottawa, Ontario, April 2, 2026

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

BAHAR YUSUF ADEM

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Bahar Yusuf Adem, applied for refugee protection in Canada. The Refugee Protection Division (“RPD”) refused his claim. Mr. Adem could not appeal the RPD’s refusal because it found that his claim had “no credible basis” and was “manifestly unfounded” (sections 107(2) and 107.1 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]).

[2] On judicial review, Mr. Adem is challenging the RPD's credibility findings and its determination that his claim had "no credible basis" and was "manifestly unfounded".

[3] I have serious concerns with the reasonableness of a number of the RPD's credibility findings. The interconnectedness of these findings mean that the matter has to be sent back to be redetermined. Credibility was the determinative issue for the RPD; the reasonableness of a number of the key components of the RPD's credibility analysis leaves me with little confidence in the outcome reached. I am allowing the judicial review.

II. Procedural History

[4] Mr. Adem is a citizen of Ethiopia. He came to Canada in July 2018 and made a claim for refugee protection. Mr. Adem made a refugee claim on two different grounds: i) imputed political opinion as a member of a group that engaged in protests and advocacy against the government; and ii) his perceived sexual orientation.

[5] Mr. Adem's refugee claim was heard over four sittings between February 2020 and November 2023.

[6] The Minister did not intervene in Mr. Adem's case before the RPD, though the RPD sent multiple notices seeking their involvement. Three of the notices advised the Minister of possible program integrity issues relating to Mr. Adem's identity, use of fraudulent documents and overall credibility. One notice dealt with a potential exclusion issue, which ended up not being of

concern to the RPD. In response to each notice, the Minister advised that they would not be intervening in Mr. Adem's case.

[7] In a lengthy decision, the RPD determined that Mr. Adem was not a credible witness and that many of the documents he submitted were fraudulent. The RPD's findings under sections 107(2) and 107.1 of *IRPA* that the claim had "no credible basis" and was "manifestly unfounded" meant that Mr. Adem could not appeal the RPD's refusal to the Refugee Appeal Division and that he was not protected from removal with a statutory stay pending the outcome of his judicial review (section 110(2)(c) of *IRPA* and section 231(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227).

III. Issue and Standard of Review

[8] The sole issue on judicial review is the RPD's credibility determinations and its finding that the claim was manifestly unfounded and had no credible basis as contemplated by sections 107(2) and 107.1 of *IRPA*. The parties agree, as do I, that these issues are about the substance of the decision and not the process followed. Accordingly, I will review the RPD's decision on a reasonableness standard.

[9] In *Vavilov*, the Supreme Court of Canada described the reasonableness standard as a deferential but nonetheless "robust form of review", where the starting point of the analysis begins with the decision maker's reasons (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 13). A decision maker's formal reasons are assessed "in light of the record and with due sensitivity to the administrative regime in which they were

given” (*Vavilov* at para 103). The Court described a reasonable decision as “one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (*Vavilov* at para 85). Administrative decision makers, in exercising public power, must ensure that their decisions are “justified, intelligible and transparent, not in the abstract, but to the individuals subject to it” (*Vavilov* at para 95).

IV. Analysis

[10] The RPD made many negative credibility determinations and found many of the documents Mr. Adem submitted were fraudulent. I have concerns about the RPD’s credibility analysis with respect to several core documents relating to Mr. Adem’s political opinion claim, specifically, medical reports post-detention in Ethiopia and a letter from an Ethiopian lawyer currently representing his brother in a court case. My concerns with the RPD’s treatment of these core documents is a sufficient basis to have the case be redetermined. I also have concerns about the RPD’s reliance on weak plausibility findings to find many other non-core documents to be fraudulent. Lastly, I find the RPD’s sweeping generalization about all translations done in Ethiopia to be unintelligible. I will address the core documents first.

A. *Medical Reports*

[11] Mr. Adem submitted three short medical certificates/reports from Dil Chora Referral Hospital, Legehare Health Center and Robsen Clinic that document that he sought treatment after being released from each of his three detentions in Ethiopia. Some details in the reports are handwritten and difficult to read, though the dates, Mr. Adem’s name, and words like “mild head injury” and “bed rest” are legible to me.

[12] The RPD found that the medical reports were fraudulent because Mr. Adem had not mentioned these medical visits in his refugee narrative (Basis of Claim or “BOC”) or to the psychotherapist he saw in Canada on one occasion. Based on this omission, the RPD found “the claimant did not attend these clinics, and the medical certificates are fraudulent.”

[13] This Court has repeatedly found that an “omission should not be used to impugn [a claimant’s] credibility unless it was material and significant to the claim” (*Nwabueze v Canada (Citizenship and Immigration)*, 2019 FC 1577 at para 11; see also *Aliserro v Canada (Minister of Citizenship and Immigration)*, 2022 FC 412 at para 26; *Feradov v Canada (Citizenship and Immigration)*, 2007 FC 101 [*Feradov*] at paras 18-19).

[14] Certainly Mr. Adem’s detentions were material to his political persecution claim – these are mentioned in the BOC. The RPD does not explain how seeking medical treatment was so significant to Mr. Adem’s claim that a negative inference should be drawn based on omitting these details from the BOC. It may be that the medical reports are key corroborative documents relating to Mr. Adem’s detention but that does not make seeking treatment a key event that had to be set out in his refugee narrative.

[15] Refugee claimants and their representatives must make decisions as to what to include in the refugee narrative and what not to include. It is not an exact science. As Justice Barnes (as he then was) aptly observed in *Feradov*: “It is well understood that these documents [refugee claim forms] are often prepared by representatives or on the advice of representatives with different

views of materiality” (*Feradov* at para 18). It is unreasonable to draw a negative inference on the basis of an omission of this kind of detail in a refugee narrative.

[16] Mr. Adem’s failure to mention these medical visits to the psychotherapist in Canada is the only other ground for discounting that the medical visits occurred and finding Mr. Adem submitted fraudulent medical documents. Again, other than asserting this is something one would be expected to remember and tell their psychotherapist after 2.5 years living in Canada, there is no explanation as to why visiting these medical clinics was so significant that it had to be mentioned. Moreover, and more importantly, there is no requirement that a claimant tell all the details of their claim, even significant ones, to a medical professional. Nor is there a requirement that the medical professional set out all the details shared with them in their report.

[17] The RPD’s analysis of the medical documentation and Mr. Adem’s testimony about his medical visits lacks coherence and ultimately does not “add up” and therefore must be set aside (*Vavilov* at para 104).

B. *Lawyer’s Letter*

[18] Mr. Adem provided a letter from a lawyer in Ethiopia. It was written in English. The lawyer stated that he was representing Mr. Adem’s brother before the court in Ethiopia. Mr. Adem alleges that after he left the country, the police went looking for him and arrested his brother in his stead.

[19] The lawyer states that Jafar [the Applicant's brother] "has been appearing before the court the last 2 year with long adjournment, unfair treatment and torture in prison center so he is totally feeling is injustices trail" and "So in my part as a lawyer I am arguing before the court since either of them did not do any crime and Jafar (Applicant's brother) should be free from unfair charge and should release from the prison."

[20] The RPD found that this letter was fraudulent because of "grammatical errors". Further, the RPD found, even if it was not fraudulent, the lawyer's view that the brothers had not committed any crimes came from "the claimant's biased family members, and therefore, of minimal evidentiary weight."

[21] The RPD's determination that the letter was fraudulent because of grammatical errors in the lawyer's letter is unreasonable. Ultimately, the RPD is making a plausibility finding – finding it implausible that an Ethiopian lawyer writing in English could have made these grammatical mistakes and therefore the letter must be fraudulent. This is a big leap to make, based on unsupported assumptions and speculation.

[22] This Court and the Federal Court of Appeal have repeatedly held that implausibility findings in the refugee context must only be made in "the clearest of cases" where "the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the claimant" (*Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 7; *Al Dya v Canada (Minister of Citizenship and Immigration)*, 2020 FC 901 at paras 27-29).

That a lawyer writing, not in their first language, could make grammatical errors in a letter is not so “outside the realm of what could be reasonably be expected” to ground the RPD’s determination that the letter was inauthentic.

[23] The RPD’s alternative finding that even if the lawyer’s letter was not fraudulent, it had “minimal evidentiary weight” is also unreasonable. The RPD found that the lawyer’s statement that Mr. Adem and his brother are innocent of any crime was only based on information provided by “biased family members”. Leaving that aside, the RPD did not consider other aspects of the lawyer’s letter and its potential relevance to Mr. Adem’s claim – not the lawyer’s view of his innocence vis a vis the Ethiopian state, but rather that the lawyer confirmed several of his allegations: i) the authorities had taken Mr. Adem’s brother in his stead when they came looking for him in February 2020; ii) that his brother remains imprisoned; and iii) that this lawyer is representing Mr. Adem’s brother in court. The RPD makes no mention of these aspects of the lawyer’s letter, which are relevant to key allegations Mr. Adem is making. This too is an unreasonable evaluation of the evidence.

C. *Other Non-Core Documents*

[24] As I have already noted, the RPD found many of Mr. Adem’s documents to be fraudulent. Some were key identity documents – like his birth certificate and Kebele ID card – and others not as significant, like his education documents. I group all these documents as “non-core” only in the sense that they were not determinative of Mr. Adem’s claim. For example, despite having found Mr. Adem’s identity documents to be fraudulent, the RPD still accepted his identity – name, birthdate and nationality. The RPD acknowledged that the numerous education

documents were not relevant to its assessment of Mr. Adem's claim. Nonetheless, the RPD noted that it evaluated each of these documents "despite their lack of probative value, to highlight the claimant's lack of credibility and tendency to mislead immigration officials."

[25] Given the large number of documents, and my earlier finding that the matter has to be redetermined based on the RPD's evaluation of core documents, I will not address the RPD's evaluation of each document. However, overall, I find it concerning that some of the RPD's fraud determinations relied on its view of what was likely to be the practice in Ethiopia. For example, the RPD found it implausible that his family would be able to obtain school records from 20 years ago "in a country which the UN classifies as a least developed country". I would reiterate that plausibility findings can only be made in the "clearest of cases" and decision-makers must be sensitive that they may be judging the plausibility of an action based on their own cultural context.

[26] The RPD also relied on fairly minor typographical and grammatical errors in some of the documents to conclude that the documents were fraudulent. As explained by this Court at paragraph 24 of *Oranye v Canada (Citizenship and Immigration)*, 2018 FC 390, "...the RPD and RAD's approach must be sensitive to the fact that foreign documents may not follow the same customs, traditions, and language conventions that are familiar in Canada. Those contextual differences cannot be the basis upon which to ground a finding of fraud."

D. *Translations in Ethiopia*

[27] I also want to address the RPD's analysis and approach to translations from Ethiopia. The RPD takes issue with the business license of one translator from Ethiopia. On the business license, there is an additional handwritten "e" inserted in the translator's name on the English side of the document. Based on this, the RPD finds that it can place no weight on the translator's certificate or business license. There is no explanation as to why the RPD found this minor correction to how the translator's name was written in English on their business license to be a sufficient basis to invalidate their translation certificate.

[28] Further, and even more perplexing, the RPD finds that based on this minor issue with the copy provided of a business license of one translator in Ethiopia, it could not rely on any translation done in Ethiopia. The RPD states: "Given the panel's concerns with the claimant's use of another Ethiopian translator [Y.A., see below] for his aunt Fatuma's letters and identity card, the panel cannot rely on any translation that was undertaken in Ethiopia." This sweeping generalization about all translations done in Ethiopia is not based on any logical foundation and is not an appropriate basis on which to evaluate evidence.

V. Disposition

[29] On the whole, I find the RPD's reasons do not exhibit the care and attention required in making credibility findings about a refugee claimant. This Court and the Federal Court of Appeal have consistently held over the last three decades that credibility findings in refugee matters must be made in clear and unmistakable terms (*Hilo v Canada (Minister of Employment and Immigration)*, 1991 CanLII 14469 (FCA), [1991] FCJ No 228 (FCA) at para 6 [*Hilo*]). The

RPD's reasons also do not meet the requirements set out in *Vavilov* that a decision be transparent, intelligible, and justified.

[30] The application for judicial review is allowed. Neither party raised a question for certification and I agree none arises.

JUDGMENT in IMM-16998-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed;
2. The decision dated August 30, 2024 is set aside and sent back to a different member for redetermination; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-16998-24

STYLE OF CAUSE: BAHAR YUSUF ADEM v. THE MINISTER OF
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PLACE OF HEARING: HELD BY VIDEOCONFERENCE

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