

Federal Court



Cour fédérale

Date: 20250106

Docket: IMM-8157-23

Citation: 2025 FC 29

Ottawa, Ontario, January 6, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

TIEN DAT PHAM

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Tien Dat Pham, seeks judicial review of a decision of the Refugee Protection Division (“RPD”) dated June 2, 2023, in which his claim for refugee protection was refused under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”).

[2] The Applicant submits that the RPD erred by finding that there was no credible basis for his claim pursuant to subsection 107(2) of the *IRPA*.

[3] For the reasons that follow, I find that the RPD's decision is reasonable. This application for judicial review is dismissed.

II. **Background**

[4] The Applicant is a citizen of Vietnam. He states that he converted to Catholicism in 2018 and attended services at an unregistered church.

[5] In April 2019, the Applicant arrived in Canada on a study permit. He continued to attend church services during his studies.

[6] In December 2019, the Applicant's mother informed him that attendees of the unregistered church had been arrested for distributing leaflets about persecution at the hands of individuals affiliated with the police.

[7] The Applicant reports that, shortly afterwards, the police came to his home and warned his mother that he had "incit[ed]...church members to protest against the government."

[8] On December 29, 2019, the Applicant submitted a refugee claim, alleging that he would face persecution as a member of an unregistered Catholic church in Vietnam.

[9] At the RPD hearing on November 10, 2022, the Applicant made new allegations that his acquaintances at the underground church “engaged in discussions of free speech, environmental protection and actions against the government.” These allegations were not included in his Basis of Claim (“BOC”) form.

[10] On June 2, 2023, the RPD refused the Applicant’s claim for refugee protection. The RPD found that there was no credible basis for the Applicant’s claim, concluding, “the [Applicant] is not a genuine practitioner of the Catholic faith and...has joined his Church for the sole purpose of bolstering a fraudulent refugee claim.” This is the decision that is presently under review.

III. Issues

[11] The sole issue in this application is whether the RPD’s decision is reasonable.

[12] The parties submit that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25 (“*Vavilov*”)). I agree.

[13] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13, 75, 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole is 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). Whether a decision is reasonable depends on the relevant

administrative setting, the record before the decision maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[14] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

IV. Analysis

[15] The Applicant submits that the RPD unreasonably concluded that there was no credible basis for his claim. The Applicant asserts that the RPD erred in its assessment of his testimony and conducted an overzealous and microscopic assessment of his documentary evidence.

[16] The Respondent submits that the RPD reasonably found that there was no credible basis for the Applicant’s claim, as the Applicant’s testimony and documentary materials contradicted his BOC and were vague and inconsistent.

[17] I agree with the Respondent.

[18] The RPD’s finding of no credible basis was justified in light of the record. A finding of “no credible basis” may be made even if there is “some credible or trustworthy evidence,” so

long as “that evidence is insufficient in law to sustain a positive determination of the claim” (*Rahaman v Canada (Minister of Citizenship and Immigration)* (CA), 2002 FCA 89 (CanLII) at para 30 (“*Rahaman*”) [emphasis in original]). This is precisely what the RPD found in this case. The Applicant’s testimony was “vague, repetitive and circular.” Absent credible testimony, the Applicant’s documentary materials were neither sufficiently credible nor sufficiently central to the issues to ground a positive determination of his claim.

[19] The Applicant submits that the RPD erred in its consideration of his oral testimony, assessing “the soundness of his theology” rather than the genuineness of his faith and subjecting him to a doctrinal evaluation “by way of “trivia”” despite rulings from this Court that such an approach “is contrary to law” (*Wang v Canada (Citizenship and Immigration)*, 2012 FC 346 at para 9; *Zhang v Canada (Citizenship and Immigration)*, 2012 FC 503 at para 12, citing *Penghui Wu v Minister of Citizenship and Immigration*, 2009 FC 929 at para 22). Although the RPD’s treatment of the Applicant’s testimony was far from perfect, I do not find that this issue justifies disturbing the RPD’s credibility assessment as a whole.

[20] The Applicant correctly notes that the RPD posed trivia-like questions to him during the hearing. However, these questions were accompanied by open-ended questions, which were weighed more heavily by the RPD. As stated by the RPD:

[The RPD] used a mix of “trivia” type questions and open-ended questions to assess the genuineness of the [Applicant]’s belief and practice. [The RPD] placed much greater weight on the responses to open-ended questions because it gives the [Applicant] the ability to freely expression [*sic*] their knowledge, add spontaneous details and demonstrate how deeply held their beliefs are.

[21] The Applicant's responses during the hearing did not demonstrate deeply held beliefs. The Applicant did not know where the Ten Commandments or the crucifixion are recounted in the Bible. He could not identify his favourite book or even his favourite passage in the Bible. The RPD reasonably found that this level of knowledge is not consistent with the profile "[t]he [Applicant] has created" of "someone who regularly attended an unregistered Church in Vietnam in 2018 and read the Bible for a year, before coming to Canada and attending two other Catholic churches in Canada, while also watching Youtube videos and reading online articles about Catholicism." In my view, the RPD did not err in its assessment of the Applicant's oral evidence.

[22] Nor did the RPD err in its assessment of the Applicant's documentary materials. The Applicant challenges the RPD's assessment of three documents: letters from his mother, summonses from police, and a letter from a church leader named "PC." Contrary to the Applicant's submissions, I do not find that the RPD engaged in an overzealous or microscopic assessment of these materials.

[23] With respect to the letters from the Applicant's mother, the RPD reasonably determined that these documents were not capable of "sustain[ing] a positive determination of the claim" (*Rahaman* at para 30). The letters indicate that the Applicant's mother had also converted to Catholicism and that his aunt was one of the individuals who had been arrested by police. The RPD rightly noted that the Applicant did not mention this information in his BOC or his oral testimony.

[24] The RPD's observations about the letters being handwritten and there being no government-issued identification for the Applicant's mother were not material to its assessment of this evidence. The reasons are clear that the letters were dismissed "[b]ecause the details in the mother's letters contradict the [Applicant]'s narrative and testimony in material aspects," not because the letter was handwritten and unaccompanied by government identification.

[25] With respect to the summonses from police, the RPD's dismissal of this evidence was reasonable in light of the record. The Applicant submits that the summonses are not fraudulent, as they match the format of authentic documents in country condition evidence for Vietnam. However, the possibility that the documents were fraudulent was one among several reasons for placing little weight on this evidence. The RPD discounted the summonses because it found the Applicant "never practiced Catholicism" and "was never involved in a church group at all" in Vietnam. The Applicant also "testified that he never had problems with the authorities" and "did not take any actions against the government." Moreover, the Applicant "was not even in the country when his alleged church-mates were arrested...and therefore it is not credible that the police would summons him." In my view, the RPD's primary reason for discounting the summonses was the Applicant's failure to credibly establish his Catholic faith and opposition to the government. The Applicant has not demonstrated that the RPD's findings on these issues should be disturbed.

[26] With respect to the letter from PC, this letter simply states that the Applicant was registered in a course at a Catholic church with a start date of September 11, 2022. The RPD reasonably concluded that it is not capable of supporting the Applicant's claim that "he [had been] a genuine practitioner of the Catholic faith since 2018."

[27] Having determined that the Applicant was not a genuine practitioner of Catholicism, the RPD made no reviewable error in refusing the Applicant's *sur place* claim. As noted by the RPD, the Applicant's submissions in this case "focused on the [Applicant] practising Catholicism upon his return to Vietnam" [emphasis added]. Consequently, the central issue was not "[the Applicant's] religious identity in Canada" but whether the Applicant would continue to practise Catholicism upon removal (*Chen v Canada (Citizenship and Immigration)*, 2012 FC 510 at para 49). The RPD's credibility determinations were therefore material to his *sur place* claim.

[28] In my view, the Applicant in this matter has adopted a selective reading of the RPD's decision, requesting the Court engage in a "line-by-line treasure hunt for error" in a decision that, for the most part, evenly considered the merits of his claim (*Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54, cited in *Vavilov* at para 102). This request falls outside the scope of reasonableness review.

V. Conclusion

[29] For these reasons, I dismiss this application for judicial review. The RPD's decision is reasonable. Its findings account for the factual matrix of the Applicant's claim and the statutory framework set out in the *IRPA* (*Vavilov* at paras 126, 108). No questions for certification were raised, and I agree that none rise.

JUDGMENT in IMM-8157-23

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8157-23

STYLE OF CAUSE: TIEN DAT PHAM v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 17, 2024

JUDGMENT AND REASONS: AHMED J.

DATED: JANUARY 6, 2025

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