

Federal Court



Cour fédérale

Date: 20250408

Docket: IMM-6608-23

Citation: 2025 FC 639

Ottawa, Ontario, April 8, 2025

PRESENT: Madam Justice Pallotta

BETWEEN:

WELDAY YOHANNES GODLU

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant, Welday Yohannes Godlu, seeks judicial review of a senior immigration officer's (Officer) May 3, 2023 decision that refused his application for permanent residence as a member of the Convention refugee abroad class or the country of asylum class, under sections 139(1), 145, and/or 147 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[2] Mr. Godlu claims to be a citizen of Eritrea who did not fulfill his duty of compulsory national service and exited the country illegally in 2014. He states that if he were to return to

Eritrea he would be viewed as a traitor, imprisoned, and forced to rejoin the abusive national service indefinitely. When he crossed into Sudan, Mr. Godlu states he was questioned about why he fled Eritrea and then taken to the Shagarab refugee camp. However, he felt unsafe and left the camp after two weeks, travelling first to Khartoum and then leaving Sudan to travel to South Sudan and Angola in search of a better solution.

[3] In 2019, Mr. Godlu's brothers formed a group of five sponsors to bring him to Canada. To be eligible for sponsorship by a group of five individuals, an applicant must be recognized as a refugee by the United Nations High Commissioner for Refugees or a foreign state. As there was no way to apply for refugee status in Angola, Mr. Godlu returned to Sudan to obtain proof of formal refugee status for the application. He could not return to the Shagarab camp as the situation was unsafe, and instead obtained a refugee status card from a man in Khartoum. Mr. Godlu states he believed the card was real at the time. However, Immigration, Refugees and Citizenship Canada (IRCC) was unable to verify the authenticity of the card and the group of five application was refused on this basis.

[4] Mr. Godlu reapplied later that year, this time with the Anglican Diocese of Calgary as sponsor. Since the Anglican Diocese of Calgary is a Sponsorship Agreement Holder (SAH), he did not need a refugee status document to be eligible to apply.

[5] The Officer interviewed Mr. Godlu in connection with the SAH-sponsored application in Angola, in January 2023. During the interview the Officer told Mr. Godlu she had concerns with truthfulness and inconsistencies in the application.

[6] In May 2023, the Officer issued a decision letter refusing the application. After setting out the relevant legislative provisions, the Officer concluded:

After carefully assessing all factors relative to your application, I am not satisfied that you are a member of any of the classes prescribed. I am not satisfied as to what information, if any, that you have provided is truthful. I am not satisfied that you have a well-founded fear of persecution in Eritrea for reasons of race, religion, nationality, membership in a particular social group or political opinion. I am not satisfied that you have been, and continue to be, seriously and personally affected by civil war, armed conflict or massive violation of human rights in Eritrea. Therefore, you do not meet the requirements of this paragraph.

Subsection 11(1) of Canada's *Immigration and Refugee Protection Act* states that a foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the Regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act. Subsection 2(2) specifies that unless otherwise indicated, references in the Act to "this Act" include regulations made under it.

Following an examination of your application, I am not satisfied that you meet the requirements of the Act and the Regulations for the reasons explained above. I am therefore refusing your application.

[7] The Officer's notes recorded in the Global Case Management System (GCMS) summarize the interview and indicate she was not satisfied that Mr. Godlu: (i) answered all questions truthfully; (ii) submitted genuine or reliable documents to establish his identity; (iii) sought asylum from any country, which was incongruous with his declared fear of persecution; (iv) is not inadmissible to Canada; (v) is a member of the Convention refugee abroad class by reason of a well-founded fear of persecution in Eritrea on the basis of his imputed political opinion (opposition to national service) or particular social group (persons who left Eritrea without authorization), or a member of the country of asylum class.

[8] Mr. Godlu submits the Officer's decision was both procedurally unfair and unreasonable, and he asks the Court to set it aside. He argues that the Officer failed to consider crucial elements of his refugee claim, misinterpreted documents and testimony, did not conduct a fair interview, and was biased.

[9] The respondent submits the Officer reasonably denied Mr. Godlu's permanent residence application after determining that he lacked credibility, and there was no unfairness.

[10] Mr. Godlu's allegations of procedural unfairness are reviewed on a standard that is akin to correctness: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*Canadian Pacific Railway*]. The duty of procedural fairness is "eminently variable", inherently flexible, and context-specific: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 77 [*Vavilov*], citing *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paras 22-23, 174 DLR (4th) 193, among other cases. The central question is whether the procedure was fair and just, having regard to all the circumstances: *Canadian Pacific Railway* at para 54.

[11] The reasonableness standard of review applies when reviewing the substance of the Officer's decision. This is a deferential but robust form of review that considers whether the decision, including the reasoning process and the outcome, is transparent, intelligible, and justified: *Vavilov* at paras 13, 99. A reasonable decision is based on an internally coherent and rational chain of analysis, and it is justified in relation to the facts and law that constrain the

decision maker: *Vavilov* at para 85. The party challenging the decision bears the onus of demonstrating that it is unreasonable: *Vavilov* at para 100.

[12] While the respondent had raised concerns with the affidavit Mr. Godlu filed in support of his application for judicial review, Mr. Godlu was granted leave, with the respondent's consent, to file an affidavit from his brother to address the concerns. At the hearing the respondent confirmed that the brother's affidavit addressed the concerns with Mr. Godlu's affidavit.

[13] For the reasons below, this application is dismissed.

A. *Did the Officer breach procedural fairness?*

[14] Mr. Godlu submits the Officer demonstrated a reasonable apprehension of bias and conducted an unfair interview. An applicant is presumed to tell the truth, and a decision maker cannot base credibility findings on minor contradictions that are peripheral to the claim: *Maldonado v Minister of Employment and Immigration*, [1980] 2 FC 302 at 305, 31 NR 34; *Tovar v Canada (Citizenship and Immigration)*, 2016 FC 598 at paras 19-22 [*Tovar*]. Mr. Godlu submits the Officer lacked impartiality, did not maintain an open mind or give him the benefit of the doubt, showed no interest in the circumstances that gave rise to his fear of persecution, and seemed to have little knowledge of country conditions or the difficulties faced by refugees. He argues that the Officer approached the interview and decision with a mind prejudiced by the prior submission of an invalid refugee card, which was irrelevant to an SAH-sponsored application that did not require a refugee document. She was dismissive of his explanations, used an unacceptable tone, and repeated throughout the interview that there were credibility concerns.

[15] The respondent submits there is no evidence that the Officer had a closed mind or lacked impartiality. At the outset of the interview, the Officer asked for documentation to confirm Mr. Godlu's identity and status, but he did not provide an original or complete version of documentation that was sufficient to prove his identity. This was followed by contradictions in Mr. Godlu's testimony about this status, throughout the interview. The respondent submits the Officer attempted to reconcile Mr. Godlu's responses and observed procedural fairness by putting the contradictions and inconsistencies to him and giving him an opportunity to respond. The respondent argues that tone cannot be imputed into GCMS notes and there is no evidence within the notes of any bias or prejudice. Rather, the Officer outlined the requirements of what had to be proven. Finally, the respondent submits Mr. Godlu's argument that the Officer had a limited understanding of the region is without merit and directly contradicted by the interview notes.

[16] I find that the Officer did not breach procedural fairness.

[17] Mr. Godlu has not established that the Officer was biased or approached the interview and decision with a prejudiced mind. Bias is a serious allegation that challenges the very integrity of the decision maker: *Hughes v Canada (Attorney General)*, 2010 FC 837 at para 21. The burden of demonstrating actual bias or a reasonable apprehension of bias rests on the person making the allegation and a mere suspicion of bias is not sufficient: *Ibid*. Mr. Godlu relies on the presumption that an applicant is truthful, but the presumption is not unchallengeable: *Tovar* at para 19. I am not persuaded that the Officer breached procedural fairness by failing to give Mr. Godlu the benefit of the doubt, showing no interest in the circumstances that gave rise to his fear of

persecution, or having little knowledge of country conditions or the difficulties faced by refugees. I agree with the respondent that there is no evidence within the GCMS notes of any bias or prejudice.

[18] Mr. Godlu has not established that the interview was unfair. The Officer began the interview by examining the documents that were provided to establish identity and immigration status. Mr. Godlu's answers created confusion about his status. The Officer asked Mr. Godlu about his immigration status in Sudan, he said it was as a refugee claimant, the Officer put to him that the Shagarab refugee card he had submitted with his previous application was fake, and he admitted it was fake. In the course of questioning Mr. Godlu about why he submitted a fake document to IRCC, the Officer found he had also provided incorrect information on his previous application. The interview notes indicate that Officer continued to have concerns with Mr. Godlu's testimony, put the concerns to him, and attempted to reconcile his responses.

B. *Is the decision unreasonable?*

[19] Mr. Godlu submits the Officer's failure to continue the interview in order to assess all grounds of risk was unreasonable. He states the Officer accepted that he is Eritrean yet asked only one question about the events in Eritrea that were the basis for his claim. The Officer relentlessly focussed on immigration status, identity documents, and his failure to claim asylum in other countries, to the complete exclusion of the crucial elements of the refugee claim. Mr. Godlu states it was impossible for the Officer to reach any conclusions about forward-looking risk in Eritrea based on the questions that were asked during the interview, as the Officer did not examine the causes underlying his fear of persecution or the country conditions in

Eritrea. While he made a very poor decision in Khartoum, his narrative never changed, and the credibility concerns about collateral issues were not so detrimental as to render it unnecessary for the Officer to examine the actual risk.

[20] Mr. Godlu submits the Officer's conclusion regarding credibility and truthfulness was flawed, including because she approached the interview with the aim of proving that he lacked credibility, did not give him the benefit of the doubt, based her conclusion on minor contradictions in his evidence about matters that were secondary or peripheral to the refugee protection claim, and failed to evaluate what she saw as untrue statements in light of all the circumstances of the case.

[21] Mr. Godlu submits the Officer was obsessed with the Shagarab refugee card that was already known to be a fake and was not required for his SAH-sponsored application, and the purpose of this line of inquiry could only be to attack his credibility. Furthermore, the Officer unreasonably found his answers to be contradictory and deliberately misleading when it was clear that he had only a vague understanding of his refugee status and did not know the card was fake when he obtained it.

[22] In addition, Mr. Godlu submits the Officer's dismissiveness led her to misinterpret documents and testimony. The Officer was critical of a letter from the Jesuit Refugee Service stating that Mr. Godlu applied for asylum in Angola when he had not applied. Mr. Godlu argues the Officer misinterpreted of the purpose of the letter, which was to create a record of his interest in claiming refugee status and to identify him as a refugee to the police. The Officer's questions

were confusing, and she misinterpreted his explanation as another example of inconsistency and lack of credibility. Also, Mr. Godlu states the Officer unreasonably faulted him for mistakes in his immigration forms when he was being honest and forthright by correcting the mistakes before the interview started, and he provided honest explanations for the discrepancies: *Ismail v Canada (Citizenship and Immigration)*, 2020 FC 647 at paras 36-37. In any event, the mistakes were minor. They related to the dates of his travels to other countries after fleeing Eritrea and were off by one month at the most.

[23] Mr. Godlu submits a failure to seek the protection of another country is not determinative, and a decision maker must consider the claimant's explanation in deciding whether the actions can fairly evidence a lack of subjective fear: *Malaba v Canada (Citizenship and Immigration)*, 2013 FC 84 at para 15. He acted to get out of Eritrea and his actions were consistent with a fear of persecution and harm in Eritrea. His belief that he was registered as a refugee in Sudan was reasonable, as Sudanese officials interviewed him when he entered the country and then brought him to the Shagarab refugee camp. Mr. Godlu contends the Officer failed to consider this explanation. The Officer questioned why he would establish himself in Angola where he did not have a prospect of receiving refugee protection but ignored the experiences in Sudan and South Sudan he had described in his application forms and his explanation at the interview that there was conflict in these countries. Despite a reasonable explanation consistent with widely known conditions in Sudan and South Sudan, the Officer characterized the failure to "legitimately" claim refugee status as a choice.

[24] The respondent submits Mr. Godlu did not meet his onus to establish his identity and nationality, which is prerequisite for protection. The only official documentation he provided was a poor quality photocopy of an Eritrean identity card that was torn and missing information. It was reasonable for the Officer to conclude that she had no ability to ascertain Mr. Godlu's identity, and the claim failed on this basis alone.

[25] In addition to the inability to ascertain Mr. Godlu's identity, the respondent contends the evidence was replete with inconsistencies and contradictions and the Officer reasonably rejected the application based on major credibility concerns. Mr. Godlu continued to assert that he made a refugee claim in Sudan even when confronted with indisputable evidence that he did not, changed information in his application forms at the interview, gave inconsistent and contradictory evidence throughout the interview, and changed his responses multiple times when confronted with the contradictions. The respondent also states it was logical for the Officer to ask Mr. Godlu whether he claimed asylum, as it was an indicator of his alleged fear, and it was reasonable for the Officer to conclude that not claiming asylum for many years was inconsistent with a well-founded fear of persecution.

[26] The respondent argues that the Officer was not required to continue the interview to assess all grounds of possible risk when credibility had already become determinative: *Al Fares v Canada (Citizenship and Immigration)*, 2020 FC 373 at paras 87-89 [*Al Fares*]. In view of the accumulation of contradictions, there was no reason for the Officer to continue the interview or ask further questions about Mr. Godlu's subjective fear. The respondent states the Officer did not know where the truth lies, and reasonably refused the application.

[27] Mr. Godlu counters that the respondent's arguments on identity should not be entertained. Despite the Officer's concerns about the quality of the identity documents, she accepted that he is Eritrean. The Officer did not tell him at the interview that she did not accept his identity and the refusal letter and GCMS notes do not state that she was unable to ascertain identity or that identity was the basis for the refusal. In any event, Mr. Godlu states his profile warranted a risk assessment, and while the negative credibility finding may have called for greater scrutiny, it did not absolve the Officer from assessing actual risk based on personal factors that could be objectively identified or verified: *Jama v Canada (Citizenship and Immigration)*, 2014 FC 668 at paras 19-20 [*Jama*]. Mr. Godlu states it was incumbent on the Officer to assess his risk based on Eritrean citizenship together with the objective aspects of his profile—a young man of military age who left the country without authorization—and country condition evidence that described the risks for military deserters.

[28] Mr. Godlu also contends that the respondent misrepresents or overstates the Officer's credibility findings, and he challenges the respondent's statements that he continued to assert he had made a refugee claim in Sudan despite evidence to the contrary and changed information in his application forms at the interview. Mr. Godlu repeats that he had a vague understanding of Sudan's asylum process and reasonably believed he was registered as a refugee in Sudan because he was questioned by Sudanese border officers and then taken to a refugee camp. He corrected his application forms prior to the interview, not at the interview, and the sponsor emailed the corrected forms days before the interview.

[29] Mr. Godlu states his case is not comparable to *Al Fares*, where the officer's credibility concerns were not about collateral matters but rather about the applicant's role in the military, which was central to both the claim for protection and a determination of whether the applicant was inadmissible.

[30] I am not persuaded that the Officer's decision rejecting Mr. Godlu's application was unreasonable.

[31] I do not agree with Mr. Godlu that the Officer was required to assess risk based on personal factors that could be objectively identified or verified and the country condition evidence. *Jama* does not assist because the only established and objectively verifiable aspects of Mr. Godlu's profile at the time of the interview were that he is a man of military age from Eritrea. This profile alone could not establish that Mr. Godlu met the legislative requirements for immigration, and that he is not inadmissible to Canada. For example, the respondent points out that the objective aspects of this profile cannot distinguish persecutors from the persecuted.

[32] While the Officer accepted that Mr. Godlu is likely a citizen of Eritrea, the concerns about the documents and testimony to establish his identity and immigration status were nevertheless a key reason why she was not satisfied that he met the legislative requirements for immigration and was not inadmissible to Canada. For example, the Officer was not satisfied that the documents Mr. Godlu submitted to establish his personal and national identity were genuine or reliable, and she found he did not have genuine state-issued documents from any country. However, I do not agree with the respondent that identity concerns alone constituted an

independent basis to reject the application. In my view, it is clear from the refusal letter and GCMS notes that the determinative issue was credibility rather than identity *per se*. The concerns with the identity documents Mr. Godlu provided and with the lack of any genuine state-issued documents from any country were factors that, in the Officer's view, affected his credibility.

[33] In addition to concerns with the documents, the Officer was not satisfied that Mr. Godlu answered all questions truthfully. She had concerns about contradictions and inconsistencies and was not satisfied that Mr. Godlu's statements were truthful or reliable. Given the general credibility concerns regarding the truthfulness of the information he provided and what the Officer characterized as "frequently contradictory" statements, she gave Mr. Godlu's statements "very limited weight" and was not satisfied as to his activities in Eritrea, Sudan, and Angola.

[34] The Officer relied on her findings about the reliability and truthfulness of Mr. Godlu's documents and evidence to conclude that she was not satisfied, based on the information before her, that Mr. Godlu is a member of the Convention refugee abroad class or a member of the country of asylum class, and that he is not inadmissible to Canada.

[35] Credibility findings are afforded deference on judicial review, particularly since the Officer heard and observed Mr. Godlu's testimony. I have carefully considered each of Mr. Godlu's arguments regarding the Officer's approach and the findings that led to the overall credibility determination. While I agree with him that the respondent misrepresents or overstates some of the credibility findings, I am not persuaded that the Officer's overall credibility

determination was unreasonable or that she erred by refusing Mr. Godlu's claim on the basis that she was "not satisfied as to what information, if any, that [he] provided is truthful".

[36] I disagree with Mr. Godlu that the Officer conducted a microscopic analysis of evidence and focussed on secondary or peripheral issues. In my view, the Officer did not dwell on the fake refugee card or on Mr. Godlu's corrections to the dates in his application forms. Both were relevant to reliability and credibility because of the answers Mr. Godlu provided during the interview in response to the Officer's questions—including that there was incorrect information in his previous application and he did not check the SAH-sponsored application before signing it. Mr. Godlu may have been confused at the interview, but I am not persuaded that the Officer's questions were confusing or that she was zealous in finding contradictions and dismissive of his explanations.

[37] I am also not persuaded of any error in the finding that Mr. Godlu did not apply for refugee status through legitimate means in any country, or the resulting inference that the failure to do so was incongruous with his declared fear of persecution. Mr. Godlu's Schedule 2 form states he was questioned by Sudanese officials before being brought to the Shagarab camp. He may have believed that this process amounted to a type of registration, but I can find no statement in the Schedule 2 form or the interview notes that he believed he had been granted status that offered protection from being returned to Eritrea—either in Sudan while he was there or in the countries where he lived in the years after leaving Sudan. Lastly, I do not agree that the Officer disbelieved or ignored credible testimony that was consistent with known country

conditions because she lacked knowledge of country conditions and the difficulties faced by refugees.

[38] It is not the Court's role on judicial review to reassess or reweigh the evidence, or conduct its own analysis of the matter and ask what decision it would make if it were deciding the matter itself: *Vavilov* at paras 83, 96, 125. Mr. Godlu has not established that the Officer's findings were not reasonably open to her.

[39] The Officer was not required to continue the interview to assess all grounds of possible risk and did not err by failing to assess a central aspect of Mr. Godlu's application. I do not disagree with Mr. Godlu that the Officer was in no position to judge whether he would face a well-founded fear of persecution in Eritrea, but this was due to her global credibility finding, which was reasonable, and not a reviewable error. Mr. Godlu was required to show that he is a member of a prescribed class and not inadmissible. Contrary to Mr. Godlu's argument, it was not impossible for the Officer to conclude that she was not satisfied on the record before her that Mr. Godlu met these requirements. As explained previously, the objective aspects of Mr. Godlu's profile were insufficient to establish his claim based on the country condition evidence alone. Since there was little documentary evidence before the Officer (apart from identity documents, most of the evidence was Mr. Godlu's own statements) the Officer did not err in concluding that the credibility findings were determinative.

[40] In my view, the Officer's decision to refuse Mr. Godlu's application is sufficiently intelligible, transparent, and justified. Mr. Godlu has not established that the Officer's decision

was procedurally unfair or unreasonable. Consequently, I must dismiss this application for judicial review.

[41] Neither party raised a question of general importance for certification. In my view, there is no question to certify.

JUDGMENT IN IMM-6608-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. No question of general importance is certified.

"Christine M. Pallotta"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6608-23

STYLE OF CAUSE: WELDAY YOHANNES GODLU v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: AUGUST 13, 2024

JUDGMENT AND REASONS: PALLOTTA J.

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