

Federal Court



Cour fédérale

Date: 20250428

Docket: IMM-12568-23

Citation: 2025 FC 750

Ottawa (Ontario), April 28, 2025

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

AFRO GUNI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Guni is seeking judicial review of a decision of the Refugee Appeal Division [RAD] dismissing his claim for refugee protection. The RAD found that Mr. Guni's claim of religious persecution was not credible, mainly because he showed insufficient knowledge of the differences between the Sunni and Shi'a faiths. I am granting Mr. Guni's application, because the RAD failed to appreciate that Mr. Guni never converted to the Shi'a faith and therefore

expected him to show an unjustifiably high degree of knowledge of the differences between the two main branches of Islam. Accordingly, the RAD's decision is unreasonable.

I. Background

[2] Mr. Guni is a citizen of Ghana. He is a Sunni Muslim and was born in a Sunni family. His refugee claim is based on his uncle's attempt to force him to convert to the Shi'a faith. Mr. Guni attended a Sunni school when he was young. When he was about 18 years old, his father died and his uncle forced him to attend a Shi'a school for another five years. Mr. Guni refused to convert and eventually decided to leave this school. In the following years, was the subject of threats or attacks, which prompted him to leave Ghana in 2013. After spending a few months in South Africa, he travelled to the United States, where he made a refugee claim. In 2019, before that claim was adjudicated, he came to Canada and claimed refugee status in this country.

[3] Before the Refugee Protection Division [RPD], Mr. Guni was questioned about the differences between the Sunni and Shi'a faiths. His answers are described in more detail below. The RPD found that "given fifteen years of religious education, it is reasonable that the claimant would have exhibited a deeper knowledge and understanding of his religion which forms the basis of his refugee claim." The RPD also relied on Mr. Guni's long delay before leaving Ghana, failure to make a refugee claim in South Africa and failure to provide corroboration of his refugee claim in the United States to buttress its negative credibility finding. On appeal, the RAD largely agreed with the RPD, except in relation to the failure to claim refugee status in South Africa.

II. Analysis

[4] Where refugee claims are based on religious persecution, claimants are often asked questions aimed at gauging their degree of religious knowledge. It is necessary, however, to keep in mind the precise reasons for this practice, as well as its limits. It will then become apparent that the RAD exceeded these limits in Mr. Guni's case, which renders its decision unreasonable.

A. *Religious Persecution and Religious Knowledge*

[5] Even where a claim for refugee protection is based on religious persecution, the claimant's religious knowledge or beliefs are not necessarily relevant. This is because a well-founded fear of persecution is based on the agent of persecution's motivation and capacity to harm the claimant. This motivation, in turn, is often based on the agent of persecution's perception of the claimant's personal characteristics. This perception need not match the reality or, in other words, the claimant's subjective beliefs or religious knowledge.

[6] In its *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees* (HCR/GIP/04/06, 28 April 2004), the United Nations High Commissioner for Refugees explains:

9. Establishing sincerity of belief, identity and/or a certain way of life may not necessarily be relevant in every case. It may not be necessary, for instance, for an individual (or a group) to declare that he or she belongs to a religion, is of a particular religious faith, or adheres to religious practices, where the persecutor imputes or attributes this religion, faith or practice to the individual or group. . . . it may also not be necessary for the claimant to know or understand anything about the religion, if he or she has been

identified by others as belonging to that group and fears persecution as a result. . . .

10. Similarly, birth into a particular religious community, or a close correlation between race and/or ethnicity on the one hand and religion on the other could preclude the need to enquire into the adherence of an individual to a particular faith or the bona fides of a claim to membership of that community, if adherence to that religion is attributed to the individual.

[7] By way of comparison, a person may be persecuted for a political opinion that they do not really hold. The Supreme Court of Canada explained how this can happen in *Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at 747:

. . . the political opinion ascribed to the claimant and for which he or she fears persecution need not necessarily conform to the claimant's true beliefs. The examination of the circumstances should be approached from the perspective of the persecutor, since that is the perspective that is determinative in inciting the persecution. The political opinion that lies at the root of the persecution, therefore, need not necessarily be correctly attributed to the claimant. Similar considerations would seem to apply to other bases of persecution.

[8] *A fortiori*, a claimant need not have knowledge of their persecutor's religion or political ideology. A Muslim persecuted by Hindus need not know anything about the tenets of Hinduism. Nor is someone persecuted by communists expected to be able to provide a fulsome discussion of the differences between capitalism and communism.

[9] Nevertheless, there are some categories of cases in which the claimant's religious knowledge is relevant. Where claimants assert that they fear persecution because they converted to a particular religion, this Court has consistently held that it is permissible for the RPD to question them to ensure that their knowledge of their new religion corresponds to what can be

reasonably expected in the circumstances: *Hou v Canada (Citizenship and Immigration)*, 2012 FC 993, [2014] 1 FCR 405; *Li v Canada (Citizenship and Immigration)*, 2015 FC 1273; *Bouarif v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 49; *Gao v Canada (Citizenship and Immigration)*, 2021 FC 490; *Siline v Canada (Citizenship and Immigration)*, 2022 FC 490 [Siline]. In the normal course of things, someone who converts to a new religion does so after having inquired about the fundamental characteristics of that religion. Conversion is usually followed by a process of further learning. It would be surprising if a convert were unable to show some knowledge of their religion.

[10] This underscores an important element: in those circumstances, the claimant's religious knowledge is relevant because it sheds light on the claimant's credibility. It is not a component of the definition of refugee status. Rather, a convert who does not have a minimal degree of knowledge of their new religion is unlikely to be a credible witness. Stated differently, "there is a logical correlation between the depth of religious knowledge and the credibility of a claim of persecution": *Wang v Canada (Citizenship and Immigration)*, 2012 FC 346 at paragraph 9 [Wang (2012)]. More precisely, a finding that a claimant lacks basic knowledge of their asserted religion is an implausibility finding: *Zhang v Canada (Citizenship and Immigration)*, 2012 FC 503 at paragraph 18.

B. *Religious Knowledge, Credibility and Plausibility*

[11] Once it is appreciated that inquiries into a refugee claimant's religious are a form of plausibility determination, the parameters of the inquiry are brought into sharper focus.

[12] An implausibility finding is a species of credibility finding. In such a case, the lack of credibility does not flow from inconsistencies, hesitation, the evolving character of testimony or similar factors. Rather, testimony is not believed because the trier of fact finds that the events could not have happened as recounted by the witness or are so unlikely as to warrant disbelief. In other words, testimony is rejected because it does not correspond to our understanding of how events may unfold in the usual course of things. This understanding may originate in the trier of fact's personal experience or in background evidence, such as country condition evidence.

[13] Implausibility findings are challenging because “the mere fact that an event is unlikely given past experience does not entail that it did not (or could not) occur”: *Zaiter v Canada (Citizenship and Immigration)*, 2019 FC 908 at paragraph 8 [*Zaiter*]. Decision-makers must avoid the logical fallacy of disbelieving testimony simply because it describes unlikely or infrequent events: *Al Dya v Canada (Citizenship and Immigration)*, 2020 FC 901 at paragraphs 35–37 [*Al Dya*]. The pitfalls of implausibility findings are particularly salient in refugee cases, because the decision-maker's personal experience may not encompass what is usual or common in the claimant's country of origin: *Zaiter* at paragraph 8; *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at paragraph 7 [*Valtchev*].

[14] For these reasons, this Court has repeatedly cautioned decision-makers to refrain from drawing implausibility findings except “in the clearest of cases,” where the testimony is “outside the realm of what could reasonably be expected” or where “events could not have happened in the manner asserted by the claimant”: *Valtchev* at paragraph 7; *Aguilar Zacarias v Canada (Citizenship and Immigration)*, 2012 FC 1155 at paragraphs 10–11; *Al Dya* at paragraph 39.

[15] These cautionary remarks apply with increased force where decision-makers find the claimant's assertion of religious belonging to be implausible because of a lack of religious knowledge. Religion is primarily a matter of faith or belief. Freedom of religion and protection against religious persecution are not conditional on knowledge of, or conformity with religious dogma. While courts may inquire as to the sincerity of a person's religious beliefs, the scope of such an inquiry must remain as limited as possible: *Syndicat Northcrest v Amselem*, 2004 SCC 47 at paragraphs 47–53, [2004] 2 SCR 551.

[16] The proper approach begins with identifying the reason why sincerity of belief or a particular degree of religious knowledge is relevant to a particular claim. As mentioned above, there are instances of religious persecution in which the claimant's actual beliefs or knowledge are simply irrelevant. In other cases, especially cases involving conversion, it is reasonable to expect a certain degree of knowledge of the religion in question: see, for example, *Siline* at paragraph 9. Indeed, most if not all the cases in which this Court decided that it was reasonable to inquire into religious knowledge were cases of alleged conversion. Understandably, the Court is concerned that failing to verify the sincerity of allegations of religious conversion would open the door to abuse.

[17] The next step is to determine the degree of religious knowledge expected from the claimant. Of course, this is a contextual inquiry that must take into account factors such as the nature of the religion in question, the circumstances of conversion, the claimant's age and education, the length of time since conversion, the claimant's actual opportunity to acquire religious knowledge, and so forth. At this stage, the decision-maker must keep in mind the

stringent test for a finding of implausibility. The test is not what a good or average convert would know. It is not a game of religious trivia: *Wang v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1030 at paragraph 13. Nor is it an assessment of “the soundness of [the claimant’s] theology”: *Wang (2012)* at paragraph 9. Rather, the decision-maker must attempt to define “the realm of what could reasonably be expected” or, put differently, what minimal degree of knowledge a convert must show for their claim of conversion to be credible.

C. *The RAD’s Decision*

[18] In light of these principles, the RAD’s treatment of Mr. Guni’s lack of religious knowledge was unreasonable. The RAD drew a negative inference because Mr. Guni “was unable to answer basic and straightforward questions regarding the differences between the Sunni and Shia sects of Islam, the role of Prophet Mohammed and the holy book, the Quran.”

[19] First, the RAD failed to appreciate that, unlike most cases in which this Court dealt with an assessment of religious knowledge, Mr. Guni’s claim was not based on conversion. Rather, Mr. Guni resisted his uncle’s attempts to force him to convert to the Shi’a faith. Given these circumstances, the RAD’s statement that Mr. Guni’s religious education was “central to his material allegations” lacks justification. What was important was his uncle’s perception that he was a Sunni. Thus, contrary to the conversion cases, there did not appear to be any particular reason why Mr. Guni’s religious knowledge was relevant to the inquiry and the RAD did not identify any. Symptomatic of the RAD’s lack of clarity on this issue is the RAD’s failure to spell out the scope of its “negative inference,” in other words, what part of Mr. Guni’s narrative it did not believe: that he first went to a Sunni school, that his uncle forced him to transfer to a Shi’a

school, or that he is a Sunni Muslim at all? In addition, given that Mr. Guni did not convert to the Shi'a faith, it is difficult to understand how he can be expected to have detailed knowledge of it.

[20] Second, the RAD drew a negative credibility finding without turning its mind to the stringent test for an implausibility finding. For the RAD, Mr. Guni should have exhibited greater religious knowledge because he attended both Sunni and Shi'a schools for long periods of time. Yet, Mr. Guni may have found other subjects, for example literature or physics, to be more interesting or relevant than religion. He always maintained that he did not want to convert to the Shi'a faith. He may have had a learning disorder. And he may have had difficulty remembering the details when questioned about this twenty years later. In short, there are many plausible explanations for Mr. Guni's relative lack of knowledge of the differences between the Sunni and Shi'a faiths. Beyond its reference to Mr. Guni's schooling, the RAD did not explain why it was "outside the realm of what could reasonably be expected" for someone like him to lack knowledge of the different interpretation the Sunni and the Shi'a give to the Quran, nor did it point to any evidentiary basis for holding that such knowledge is reasonably expected.

[21] Third, the RAD unreasonably analyzed what Mr. Guni actually said in his testimony. The RAD focused on the following excerpt:

INTERPRETER: He said they both follow the Koran but there are second books that are different.

MEMBER: Which books are different?

INTERPRETER: He said the difference is that there are certain books that underrated the prophet, they do not exalt in the pedestal that he deserves, so that's the difference in some of the books.

MEMBER: Which books do that? Which books?

INTERPRETER: He said that there are a (inaudible) and I want to – let me get clarification on what those means. He talked about certain records and this is – I’m just kind of expanding here, there are certain records that are very different, so he keep on using the word these books, these records that are very different. So it’s the record of the prophet, that’s what I understood.

MEMBER: Okay. But you don’t know specific names of books that are different between Sunni and the Shia?

INTERPRETER: So he gave example, he said there’s one called Adiso Bohi (ph). He said it seems like they’re the same record but that they’re the same books but the explanations are different, the interpretations of the books.

[22] Some caution is warranted when analyzing this excerpt. Mr. Guni’s testimony was interpreted from Hausa to English. Most of the time, the interpreter used the first person to render Mr. Guni’s testimony. When difficulties were encountered, however, the interpreter switched to the third person. Here, it is fairly obvious that the interpreter had difficulty finding the appropriate words to translate religious concepts.

[23] Most importantly, Mr. Guni was able to name a book that the Sunni and Shi’a interpret differently. Although the question had to be repeated three times, this is likely due to the interpreter adding his own explanations and trying to self-correct in the process. Nothing in the short excerpt reproduced above tends to show that Mr. Guni had difficulty answering, let alone that is not a sincere believer.

[24] The RAD also underscored that Mr. Guni himself had mentioned the different books but was “unable to elaborate” when asked further questions. There is nothing unusual here. By way of comparison, someone not trained in the law might know that Quebec is governed by a

different legal system than the rest of Canada and might even be able to name the Civil Code, while being unable to provide concrete examples of the differences.

D. *Other Issues*

[25] The RAD put forward other reasons for finding Mr. Guni not credible. Mr. Guni is challenging some of them. As the issue of religious knowledge is sufficient to render the RAD's decision unreasonable, I will not comment on these other findings. It is enough to say that I am not convinced that the decision would have been the same had the RAD not erred with respect to religious knowledge.

III. Disposition

[26] For these reasons, the application for judicial review will be granted, the decision will be quashed and the matter will be remitted to the RAD for reconsideration.

JUDGMENT in IMM-12568-23

THE COURT’S JUDGMENT is that:

1. The application for judicial review is granted.
2. The decision of the Refugee Appeal Division regarding the applicant is quashed and the matter is remitted to a different panel for reconsideration.
3. No question is certified.

“Sébastien Grammond”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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