

Federal Court



Cour fédérale

Date: 20240430

Docket: IMM-9743-24

Citation: 2025 FC 790

Toronto, Ontario, April 30, 2025

PRESENT: Madam Justice Go

BETWEEN:

STEPHEN ELIVE ELIVE

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Stephen Elive Elive [Applicant], a citizen of Cameroon, filed a claim for refugee protection due to fear of persecution from the Cameroonian authorities and traditional authorities because of his refusal to step into the shoes of his grandfather as a village priest. The Applicant alleges that because of his refusal, the traditional ruler of his community colluded with the police

who detained him as part of a round up of students and civilians after an explosion at a university in November 2021.

[2] The Applicant also alleges persecution from members of the Cameroon Anglophone separatist groups who accused him of being a collaborator with the Cameroon authorities.

[3] The Minister of Public Safety and Emergency Preparedness [Minister] intervened in the Applicant's Refugee Protection Division [RPD] proceedings. The Minister initially intervened on grounds that the Applicant's refugee claim raised matters involving Article 1F(b) of the *Refugee Convention*. The Minister later filed additional submissions alleging that the Applicant's refugee claim raised serious credibility issues.

[4] The RPD rendered a negative decision, finding the Applicant's refugee claim to be manifestly unfounded pursuant to section 107.1 of the *Immigration and Refugee Protection Act*, SC 2001, c. 27 [IRPA] [Decision]. The RPD rejected the Minister's submissions under Article 1(F)(b).

[5] The Applicant now brings this application for judicial review, arguing that the RPD erred in its credibility assessment and in finding the Applicant's refugee claim is manifestly unfounded. For the reasons set out below, I dismiss the application.

II. Issue and Standard of Review

[6] The issue before me is whether the RPD erred in its credibility assessment and in finding the Applicant's refugee claim is manifestly unfounded.

[7] The parties agree that the appropriate standard of review for the RPD's refusal is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*].

III. Analysis

[8] The threshold for finding a claim is manifestly unfounded under section 107.1 of *IRPA* is high and must be grounded in evidence: *Ahmad v Canada (Citizenship and Immigration)*, 2019 FC 11 at para 30; *Fatoye v Canada (Citizenship and Immigration)*, 2020 FC 456 at paras 43-52; and *Tacoa Veljovic v Canada (Citizenship and Immigration)*, 2023 FC 1069 at para 66.

[9] As the Court found in *Warsame v Canada (Citizenship and Immigration)*, 2016 FC 596 [*Warsame*], a "clearly fraudulent" claim is one based on dishonest representations, deceit, and falsehoods that materially impact the claim: *Warsame* at para 30. In other words, to be clearly fraud, there must be a "firm conviction that refugee protection is sought through fraudulent means, such as falsehoods or dishonest conduct that go to the determination of whether or not refugee protection should be granted": *Warsame* at para 31.

[10] In the case before me, the Applicant challenges many aspects of the RPD's adverse findings regarding his credibility. Some of the Applicant's arguments are quite trivial and do not come anywhere near to undermining the reasonableness of the Decision. I will therefore not address those arguments. Instead, I will focus only on the more substantive arguments the Applicant advances.

[11] First, I reject the Applicant's submission contesting the RPD's finding that his inability to name any armed separatist group in Cameroon is disingenuous. The RPD also noted the Applicant could not identify "Amba Boys," a group active in the Applicant's community. In reaching these findings, the RPD noted that the Applicant "identifies as an educated business owner who says the police frequently round up men due to violence perpetrated by this group." Pointing to the National Documentation Package [NDP] cited by the RPD, the Applicant notes that "Amba Boys" is the name given to the different groups of radical armed militias engaged in various armed activities seeking to separate from Cameroon. Further, the Applicant submits it is unreasonable for the RPD to expect the Applicant to know the name of the group given there are over a dozen militia groups and the group in question did not identify itself.

[12] I agree with the Respondent that the Applicant's argument does not undermine the reasonableness of the RPD's finding that the Applicant failed to provide **any** individual group names and also failed to provide the name "Amba-boys," despite having testified that he knew the general name for the groups.

[13] Second, I see no reviewable error arising from the RDP's finding that the Applicant embellished his role as a healer. The RPD provided reasons for its finding, noting that the Applicant originally testified that he was treating civilians, but could not know if they were separatists, which implies he was treating a number of unknown individuals, while in later testimony he stated he did not treat anyone who was not known to him.

[14] Third, the RPD made several findings with regard to the evidence submitted by a Mr. Kingsley, a person the Applicant's mother retained to assist the Applicant obtain bail after he was arrested and detained by the police. Mr. Kingsley turned out not to be a lawyer, contrary to the Applicant's initial claim. After receiving the Minister's notice to intervene, the Applicant provided further documents from a Mr. Mesumbe, a lawyer from the same firm as Mr. Kingsley. The RPD found Mr. Kingsley misrepresented himself as a lawyer and found the documents Mr. Kingsley submitted were fraudulent. The RPD also gave no weight to the affidavit of Mr. Mesumbe. The Applicant made several arguments challenging the RDP's findings:

- a. The question is whether the Applicant was complicit in Mr. Kingsley's misrepresentation or ought to have known that Mr. Kingsley was not a lawyer at the time of his retainer; the RPD did not specifically find the Applicant was complicit;
- b. The Applicant had no way of knowing or suspecting that Mr. Kingsley was a student-at-law and not a lawyer. Although his mother knew and hired Mr. Kingsley, the Applicant himself did not know Mr. Kingsley prior to his arrest and only saw him for the first time when Mr. Kingsley attended at the detention centre to speak to his bail matters. The Applicant only learned of Mr. Kingsley's status when the Minister intervened in the proceeding. Given these circumstances, Mr. Kingsley's misrepresentation should not be attributed to the Applicant, as the Applicant was "a victim" rather than an "enabler;"

- c. In response to the RPD's finding that Mr. Kingsley was the notary who swore his own affidavit, the Applicant notes Mr. Kingsley did not title his statement as an "affidavit," but rather as a "Statement in Support of Elive Stephen Elive's Asylum Claim in Canada." While the formatting of the document mirrored that of an affidavit, the document was in fact a "declaration" that he made upon his honour;
- d. With respect to the RPD's comment that his mother made no express reference to hiring Mr. Kingsley in her affidavit, Mr. Kingsley clearly stated in his statement that the Applicant's mother had contacted him to assist with the Applicant's bail application, and this did not need to be repeated by the Applicant's mother in her affidavit. The mother's affidavit confirmed that Mr. Kingsley had attended the police station to speak to the Applicant's bail application and secure his release;
- e. Concerning the RPD's finding that Mr. Mesumbe and Mr. Kingsley used different stamps and letterheads, the two documents were created several months apart. Further, Mr. Mesumbe confirmed that the firm had changed its letterhead in the intervening months, in part due to changing its address as well as the fact that Mr. Kingsley had the intention to pursue further studies. Given these reasons, the RPD's adverse credibility finding on this issue was speculative and not based on the evidence before it;
- f. The Applicant never saw nor received the warrant document and relied on what Mr. Kingsley told him. Although the Applicant acknowledges that Mr. Kingsley was unable to secure a copy of the warrant, merely two weeks after the warrant was issued, the Applicant was issued a convocation on June 3, 2022 to attend at the police office on June 8, 2022. Given that it is common practice in Cameroon for the police to issue a warrant of arrest if an invitee fails to answer to a convocation or notice to appear, it is reasonable to conclude that the police issued a warrant for his failure to attend at their office; and
- g. The RPD unreasonably drew a negative inference from the fact that the Applicant did not provide affidavits from members of Mr. Kingsley's law firm until the Minister intervened. However, the Applicant could not have done so before this time, given that he was not aware Mr. Kingsley was not a lawyer until the Minister intervened, at which point he contacted the law firm and confirmed this fact.

[15] I find the Applicant's submissions are largely statements of disagreement with the Decision. I also note that the Applicant at times misconstrues the RPD's findings. For instance, the RPD did explicitly find that the Applicant "created" evidence to establish his claim and "deliberately put forth false allegations and obtain fraudulent documentary evidence," contrary to the Applicant's assertion that the RPD made no finding about his complicity. Another example of the Applicant misconstruing the RPD finding is regard to Applicant's submission about the RPD's comment that his mother made no express reference to hiring Mr. Kingsley in her affidavit. The RPD's actual comment was that the Applicant testified that his mother and Mr. Kingsley were friends when neither his mother nor Mr. Kingsley so indicated in their respective statement. In any event, the RPD did acknowledge that Mr. Kingsley identified that the Applicant's mother called him on the same day as the arrest.

[16] At times, the Applicant makes factual assertions that are not grounded in the evidence. One example is the Applicant's characterization of Mr. Kingsley as a "student-at-law" when Mr. Kingsley himself, and the law firm that he allegedly worked for, never clarified conclusively his role within the law firm. At one point in his statement, Mr. Mesumbe described Mr. Kingsley as a paralegal at his firm. But in another part of his statement, Mr. Mesumbe indicated Mr. Kingsley had the intention to sit for the bar in another African country as he could not wait for the Cameroon Bar exams to be launched.

[17] More importantly, I find the RPD reasonably concluded that the evidence of Mr. Kingsley was fraudulent, given that Mr. Kingsley was said to be under honour and oath in making his statement yet made false claims that he was a lawyer, law firm partner, and board

member of an organization. Whether or not Mr. Kingsley provided a mere “declaration” as opposed to a sworn affidavit is irrelevant. He did so, as the RPD noted and the Applicant seems to concede, under his honour. Mr. Kingsley’s alleged identity document also stated he was a lawyer, despite him not being a member of the Cameroonian Bar. The RPD then concluded that Mr. Kingsley’s “affidavit and evidence has been tainted by his statements of being a partner in [a law firm] and of being a lawyer and/or solicitor.” The RPD also noted that Mr. Kingsley’s statement indicating his profession as lawyer was contradicted by the statement of Mr. Mesumbe. The RPD provided reasons for giving no weight to the documents provided by Mr. Kingsley. These findings were wholly justifiable in light of the evidence before it.

[18] I further note that the Applicant never specifies which of the documents that Mr. Kingsley provided should not to have been determined to be fraudulent, and why. Later in my analysis, I will address one of the documents that Mr. Kingsley may have provided, namely the bail bond.

[19] Fourth, I do not find persuasive the Applicant’s argument that that there is no evidence before the RPD to indicate it is not possible for Mr. Kingsley to post a bond for the Applicant in Cameroon. The RPD did not find that Mr. Kingsley posted a bond for the Applicant. Instead it found that he acted as a surety for the Applicant. Moreover, the Applicant’s argument does not render unreasonable the RPD’s comment that it is “highly unusual” for a lawyer to act as a surety when obtaining bail for their client.

[20] Fifth, in response to the RPD's finding of similarities between Mr. Kingsley's statement and that of Mr. Mesumbe, the Applicant argues this ignores the fact that while lawyers in a firm may come and go, case files remain in the firm and any lawyer can access them and rely on their contents as a basis for their opinion. With respect, this argument misses the point. Regardless of whether a law firm may rely on its case files, the RPD's finding was that the duplicative wording between the two statements demonstrates that Mr. Mesumbe does not have firsthand knowledge of what occurred. For this reason, Mr. Mesumbe's reliance on the statements of Mr. Kingsley led the RPD to lessen any weight it gave to the former's affidavit. This was not unreasonable in light of the RPD's findings about Mr. Kingsley's misrepresentation.

[21] Sixth, the Applicant challenges the RPD's finding that the convocations allegedly prepared by the traditional ruler compelling the Applicant to comply appear to be about a matter concerning him holding an identification document, and that their appearance is not consistent with the information in the NDP for Cameroon, which states that the appearance is harmonized for the entire country. In reaching this finding, the Applicant argues the RPD failed to provide any details as to what aspect of the convocation is not consistent with the information in the NDP for Cameroon. Also, the RPD did not say what is inconsistent about the reason for which the Applicant's attendance was sought, namely, a matter concerning him holding an identification document. The Applicant further argues, based on an excerpt from the NDP, the RPD cherry-picked aspects of the NDP that it felt supported its point of view while failing to cite other parts of the NDP that qualified the evidence, thereby rendering the Decision unreasonable.

[22] I reject the Applicant's argument with respect to the convocations. The RPD noted the Applicant's narrative stating that he received a convocation telling him to report, yet the convocations requesting the Applicant to attend came from the "DELEGATION GENERALE A LA SURETE NATIONAL GENERAL DELEGATION FOR NATIONAL SECURITY" about a "matter concerning him/her holding an identification document." The Applicant's narrative further described what happened when he met with the traditional ruler and was asked why he did not want to succeed his grandfather and was warned that his actions would be considered a challenge to the authorities of the gods and the state of Cameroon. The inconsistency between the Applicant's narrative about the nature of the convocations and the wording as it appears on the convocations, in my view, is apparent on its face.

[23] Further, as noted by the RPD, the convocations provided by the Applicant do not conform with the NDP evidence and sample given the lack of evidence of a counterfoil for the acknowledgement of receipt. The Applicant's arguments fail to address these central aspects of the RPD's findings.

[24] At the hearing, counsel for the Applicant argued that once the receipt was signed, it would have been provided to the authorities and the Applicant would not have a copy of the same. I note that there is no indication that the Applicant made this argument before the RPD. In any event, the argument is not based on any evidence the Applicant put before the RPD.

[25] Finally, with respect to the Applicant's argument that the RPD unreasonably rejected the support letters from the Applicant's former clients and affidavits from the Applicant's family

members, I find the Applicant is merely inviting the Court to reassess the evidence to give them more weight. With respect, this is not a role that the Court could play.

[26] I do however agree with the Applicant that the RPD committed one error when assessing the bail bond. The RPD found the bail bond not to be genuine, in part because the National Identity Card [NIC] number listed on the bail bond presumably for Mr. Kingsley, is in fact the Applicant's NIC as listed in another document. I agree with the Applicant that the reference to the NIC number on the bail bond likely refers to the Applicant and not to the surety and that this factor does not render the bail bond fraudulent.

[27] However, as the Respondent submits, and I agree, this single error does not warrant setting aside the Decision in its entirety. As the Court noted in *Nanyongo v Canada (Citizenship and Immigration)*, 2018 FC 105 [*Nanyongo*] at para 21: "... a decision of a tribunal is reasonable if 'the outcome is acceptable and defensible on the basis of reasons that could have been given or reasons that when viewed in light of the record must be seen as implicit' (*Canada (AG) v Shakov*, 2017 FCA 250 at para 103). Even if an erroneous finding is made, a decision should be upheld if there were other facts on which the decision maker could have reasonably based the ultimate decision (*Stelco Inc v British Steel Can Inc*, 2000 CanLII 17097 (FCA), [2000] 3 FC 282 at para 22 (FCA))."

[28] Unlike *Nanyongo*, the Decision shows that the RPD explicitly made numerous negative credibility findings against the Applicant that went to the heart of the claim for protection. The Applicant challenges some, but not all of the RPD's negative findings. One of the findings that is

left unchallenged is the RPD's finding that while the Applicant states that he received a convocation on Wednesday August 10, 2020 requiring him to report on Monday August 14, 2020, August 14, 2020 does not exist as a Monday and the Wednesday before August 14, 2020 is either August 13 or August 6.

[29] With the exception of the RPD's finding concerning the bail bond, I find all of the RPD's credibility findings reasonable. As such, I conclude that the Decision to be acceptable and defensible in light of the totality of the reasons that the RPD provided.

[30] Finally, I agree with the Respondent that the RPD appreciated the distinction between a claim lacking credibility and a claim being clearly fraudulent. The RPD's finding that the claim was manifestly unfounded was reasonably based on its earlier determinations that the Applicant provided fraudulent information and documents to support substantive and material elements of his claim.

IV. Conclusion

[31] The application for judicial review is dismissed.

[32] There is no question to certify.

JUDGMENT in IMM-9743-24

THIS COURT'S JUDGMENT is that:

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

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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CITIZENSHIP AND IMMIGRATION

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