

Federal Court



Cour fédérale

Date: 20250501

Docket: IMM-6306-24

Citation: 2025 FC 795

Toronto, Ontario, May 1, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

ZIAD ADEL TURKI HINDAWI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant seeks judicial review of a decision of the Refugee Appeal Division [RAD], which confirmed the rejection of his claim for refugee protection.

[2] For the following reasons, I find that the RAD's decision was reasonable. It follows that this application for judicial review must be dismissed.

II. BACKGROUND

A. *Facts*

[3] The Applicant, Ziad Adel Turki Hindawi, asserts a well-founded fear of persecution in Jordan. This fear is based on the fact that he comes from a Sunni Muslim family, but married a Christian woman and regularly attended church with her. The Applicant also claims to have converted to Christianity, though this is a point of some controversy which I will comment on below. In any event, the Applicant claims that he will be perceived as an apostate in Jordan, and that he faces a serious risk of harm from his brother, a Muslim religious extremist.

[4] The Applicant asserts that his relationship with Christianity began in 1991 when he married his first wife, a Christian. While again a point of contention, the Applicant claims to have been baptized in 2001, and that he became more engaged with the Christian faith from 2008 onwards, despite threats and manipulation meant to discourage him from regularly attending church. His brother, B, was particularly unhappy and threatened Mr. Hindawi, saying he was an apostate from Islam.

[5] In 2013, B learned that the Applicant hung a picture depicting the Last Supper in his house. B harassed Mr. Hindawi at home, tore the photo apart and threatened to kill Mr. Hindawi for his apostasy, stating that he would not get any punishment “by law or religion.” This caused the Applicant to flee, first to Turkey and Egypt, then to the United Arab Emirates.

[6] Mr. Hindawi moved to Canada in 2017. Soon after, he separated from his first wife, and the couple divorced in 2018. In the same year, he met his second wife, also a Christian, and a

Canadian citizen. They separated in 2020, at which point the Applicant made a claim for refugee protection.

[7] The Refugee Protection Division [RPD] refused the Applicant's claim for refugee protection, due to credibility concerns. It found Mr. Hindawi had not produced sufficient credible evidence to establish that he is a Christian, or that he might reasonably be imputed with a Christian or apostate profile. The RPD drew negative credibility inferences from inconsistencies in his evidence, including an inability to provide certain details, and evolving and embellished testimony. It also noted the four-year delay in claiming protection. The Applicant appealed the RPD's decision to the RAD.

B. *Decision under Review*

[8] The RAD confirmed the RPD's determination that the Applicant is not a Convention refugee. The determinative issue was once again credibility. The RAD found Mr. Hindawi had embellished his involvement in Christianity and failed to establish that he is, or would be perceived to be, a Christian convert. It equally found that the Applicant had failed to sufficiently establish a forward-looking risk of harm from his brother, B, in Jordan.

[9] In coming to this conclusion, the RAD made the following findings:

- The Applicant indicated in his Basis of Claim [BOC] form that he was a Muslim, but testified at the hearing that he was no longer a Sunni Muslim and had converted to Christianity;
- Mr. Hindawi produced no evidence corroborating either his alleged 2001 baptism, or evidence regarding steps taken to convert to Christianity since being in Canada;

- Mr. Hindawi had produced insufficient credible evidence to corroborate his alleged baptism, argued newly on appeal, which allegedly took place in Jordan in 2001;
- The Applicant's religious knowledge was not consistent with the level of involvement he alleges to have had in the Christian church, including in Canada;
- There was insufficient evidence that Mr. Hindawi would be perceived to be a Catholic or imputed to be an apostate if he returned to Jordan, as he had exaggerated his level of involvement in Christianity;
- There was insufficient credible evidence to establish the Applicant's allegations that B would kill or harm him. Mr. Hindawi's evidence on this point was evolving: in his original BOC narrative, he never mentioned his brother's religious extremist connections; however, in the days leading up to the hearing, the Applicant amended his BOC to state that B was highly influenced and motivated by the leader of a religious extremist group. Then, at the hearing, he testified that his brother was an extremist and had joined the Jihad Islami group after having been in jail with its leader. When confronted with the inconsistencies, Mr. Hindawi was unable to explain them satisfactorily; and
- The documentary evidence was insufficient to remedy credibility concerns or to establish the allegations of a forward-facing risk.

III. ISSUES

[10] The Applicant submits that the RAD's decision is unreasonable for two overarching reasons: 1) the RAD inaccurately assessed the Applicant's credibility; and 2) the RAD failed to adequately assess the Applicant's forward-looking risk.

IV. STANDARD OF REVIEW

[11] The Applicant asserts that the applicable standard of review in this matter is “reasonableness in respect of the issues at stake that involve fact-intensive determinations and the application of discretion, particularly in assessing the credibility of Hindawi's fear of persecution due to his religious conversion, and correctness in relation to the interpretation of immigration law by the Refugee Appeal Division (RAD).” While the Applicant relies on *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], this submission is an inaccurate interpretation of the Supreme Court of Canada’s decision in *Vavilov* and an incorrect articulation of prevailing legal principles.

[12] As the Court noted in *Vavilov*, there is a rebuttable presumption that the applicable standard of review for all aspects of administrative decisions is reasonableness: *Vavilov* at para 25. In this case, none of the factors that may rebut this presumption are present. In particular, I would note that the mere fact that the RAD must interpret “immigration law” in its reasons does not rebut the reasonableness presumption. Indeed, the reasonableness standard has applied to administrative decision-makers’ interpretation of their “home statute” for many years preceding *Vavilov*: see for example *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at para 30.

[13] It follows that the applicable standard of review, in respect of all questions raised by the Applicant, is reasonableness.

[14] In conducting a reasonableness review, a court “must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified” (*Vavilov* at para 15). It is a deferential standard, but remains a robust form of review and is not a “rubber-stamping” process or a means of sheltering administrative decision-makers from accountability (*Vavilov* at para 13).

V. ANALYSIS

A. *The RAD’s credibility findings were reasonable*

[15] The Applicant presents various reasons why, in his view, the RAD’s credibility findings are unreasonable. At various points in his materials, the Applicant argues that the RAD: a) failed to apply the presumption of truthfulness; b) focused on minor or microscopic errors, omissions and inconsistencies; c) relied on impermissible plausibility findings; and d) failed to have adequate regard to his mental health condition. For the following reasons, I see little merit in these arguments.

[16] First, the RAD was cognizant of the presumption of truthfulness, as set out by the Federal Court of Appeal in *Maldonado v Minister of Employment and Immigration*, (1979) 31 N.R. 34 (FCA) (CA), but found that the presumption was rebutted because of the credibility concerns that it had identified. Given the nature of those findings, which I will consider below, this was a reasonable and adequately justified finding.

[17] Second, it was reasonable for the RAD to draw a negative inference from the Applicant’s failure to mention in his BOC form and narrative that he personally identifies as a Christian and

that he was baptized in 2001. In the Applicant's own words, as drawn from his memorandum of argument, his case "revolves around his 2001 baptism in Jordan." At the hearing into this matter, counsel for the Applicant reiterated that the Applicant's conversion to Christianity was at the core of his claim. Given this characterization of the Applicant's claim, it was entirely reasonable for the RAD to conclude that the Applicant's failure to make any mention in his BOC of either his conversion to Christianity or his baptism undermined the credibility of his claim.

[18] The Applicant relies on the jurisprudence that minor or peripheral inconsistencies should not detract from a claimant's overall credibility when the core of the narrative remains consistent. This is true so far as it goes, but the Applicant's argument confirms the reasonableness of the RAD's decision. If a key element of the Applicant's claim, as defined by him, is omitted from the BOC, such an omission is neither minor, nor peripheral.

[19] I would add that it was also reasonable for the RAD to reject the Applicant's explanation for the omission. The Applicant testified that he indicated that he is Sunni Muslim in the BOC forms because he wanted to ensure that they were consistent with other documents. While this *may* have reasonably explained the Applicant's failure to mention his Christianity in the BOC forms, it does nothing to explain the same omission from the Applicant's narrative, particularly because, by his own terms, this was an important aspect of his claim.

[20] Third, the RAD did not engage in impermissible implausibility findings. The RAD made no explicit findings based on plausibility. However, the Applicant argues that it implicitly made such findings, for example, in concluding that it was not credible that he would fail to remember the name of the church he attends, or the full name of the pastor at this church. I am not

convinced that these findings amounted to a kind of veiled plausibility finding, or that they were the product of an incoherent or irrational chain of analysis: *Vavilov* at para 85.

[21] Fourth, while the Applicant maintains that the RAD did not adequately consider the “psychological effects of past traumas on Mr. Hindawi’s ability to provide a seamless narrative,” there was no evidence before the RAD to support the assertion that the Applicant faced psychological barriers in completing his BOC form.

B. *The RAD did not overlook challenges in obtaining documentary evidence*

[22] The Applicant also argues that the repression of Christian converts in Jordan may make it difficult to obtain documentation of conversion. To this extent, the Applicant argues that the RAD “may have overlooked crucial contextual factors” that ought to have limited its evidentiary expectations. Once again, I do not see merit in this argument. The RAD found that the Applicant had failed to credibly establish that he was baptized for reasons unrelated to his ability to obtain baptismal documentation.

[23] Relatedly, the RAD did not question the Applicant’s baptism because he failed to provide documentation, but observed that, though Mr. Hindawi has been in Canada since 2017, he did not provide any evidence to demonstrate attempts to either be baptized in Canada, or to have his previous alleged baptism recognized in Canada. This finding was reasonably open to the RAD.

C. *The RAD did not adopt an overly restrictive interpretation of religious persecution*

[24] The Applicant further argues that the RAD erred in focusing on the physical harm, rather than other forms of harm, that the Applicant may face if returned to Jordan, on account of his Christian identity. This argument cannot succeed for two reasons. First, as I have already found, the RAD reasonably questioned the Applicant's Christian affiliation. Second, I see no indication that the RAD actually engaged in such a restricted understanding of religious persecution. Instead, the RAD's focus was on the likelihood that the Applicant would be perceived to be a Christian or an apostate, and reasonably found that there was insufficient evidence to support this assertion.

D. *The RAD did not err in considering the Applicant's fear of his brother*

[25] The Applicant argues that the RAD erred in finding that there was insufficient credible evidence that the Applicant faces harm or death from his brother. I disagree. First, the RAD provided clear and intelligible reasons for confirming the RPD's credibility findings with respect to the Applicant's testimony about his brother. This testimony materially differed from information that the Applicant provided in his BOC narrative, and I see no error in the RAD's characterization of the testimony as being "exaggerated or embellished."

[26] As one example, the Applicant testified that on one occasion he reported to the police that his brother had assaulted him, after which the brother was put in jail with criminals. The RPD pointed out, and the RAD reasonably confirmed, that this imprisoning of the brother was not included in the BOC narrative. Once again, it was open to the RAD to conclude that the

Applicant's materially inconsistent testimony undermined the credibility of his core allegations. To be more specific, I find that it was reasonable for the RAD to conclude that there was simply insufficient credible evidence to establish either the brother's profile as an extremist, or his motivation to harm the Applicant.

E. *The RAD reasonably considered the personal documentary evidence in the record*

[27] Finally, I find that the RAD reasonably addressed the documents provided by the Applicant, which purportedly corroborated various aspects of his claim. The RAD accepted that the Applicant had married two Christian women, that he has some involvement in Christianity, and that he may have experienced some conflict with his brother in the past. Given its credibility findings, however, it was reasonable for the RAD to further find that the documentation in the record did not establish that the Applicant has a forward-looking risk of harm in Jordan.

VI. CONCLUSION

[28] For the above reasons, this application is dismissed. The parties did not pose a question for certification, and I agree that none arises.

JUDGMENT in IMM-6306-24

THIS COURT'S JUDGMENT is that:

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

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6306-24

STYLE OF CAUSE: ZIAD ADEL TURKI HINDAWI v THE MINISTER OF
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APPEARANCES:

Bilal Gul	FOR THE APPLICANT
Hannah Shaikh	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lewis & Associates LLP Barristers and Solicitors Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT