

Federal Court



Cour fédérale

**Date: 20250512**

**Docket: IMM-1683-21**

**Citation: 2025 FC 873**

**Toronto, Ontario, May 12, 2025**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**MOHAMMAD GHAMOUSHI RAMANDI**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Mohammad Ghamoushi Ramandi, a citizen of Iran, came to Canada in April 2017 as a visitor. He claimed refugee status alleging that the Iranian authorities were seeking him due to his conversion to Christianity, a fact which the Iranian authorities discovered while he was in Canada.

[2] On August 29, 2017, the Refugee Protection Division [RPD] found the Applicant not to be credible and dismissed his claim. The Applicant appealed the RPD decision to the Refugee Appeal Division [RAD] and sought to admit his baptism certificate as new evidence. In a decision dated October 16, 2018, the RAD accepted the Applicant's new evidence. However, the RAD noted that the baptism certificate does not establish the genuineness of the Applicant's Christian faith. The RAD confirmed most of the RPD's negative credibility findings and concluded that the Applicant is neither a Convention refugee nor a person in need of protection.

[3] In March 2020, the Applicant submitted an application for permanent residence on humanitarian and compassionate [H&C] grounds with new evidence about his faith, his establishment in Canada and country conditions in Iran with respect to Christian converts.

[4] By a decision dated January 8, 2021, a Senior Immigration Officer [Officer] of Immigration, Refugees and Citizenship Canada denied the Applicant's H&C application [Decision]. The Officer found the additional evidence the Applicant submitted to be insufficient to overcome the RPD's negative credibility findings, and that the Applicant failed to provide sufficient evidence of exceptional circumstances or hardship that could warrant an exemption under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c. 27.

[5] The Applicant brought his leave application for judicial review to the Court in 2021. The hearing of this judicial review application was held on January 26, 2022 before a judge who has since retired from the Court. Due to an administrative oversight, the matter was inadvertently left undecided before the judge's retirement. The oversight came to light when counsel for the

Applicant sought status update from the Court in March 2025. By Direction of the Associate Chief Justice dated April 7, 2025, the application was reassigned to another judge to make a determination based on the written record and audio recording of the hearing. The Court wishes to acknowledge the Applicant's understanding and the parties' cooperation under these extraordinary circumstances.

[6] For the reasons set out below, I grant the application.

## II. Issues and Standard of Review

[7] The Applicant raises the following issues:

- a. The Officer erred in ignoring and unreasonably dismissing new evidence of the Applicant's Christian faith and practice;
- b. The Officer failed to assess the H&C application in a manner consistent with natural justice and procedural fairness by making a credibility determination without convoking an oral hearing;
- c. The Officer applied the incorrect standard in requiring the Applicant to demonstrate "exceptional circumstances;"
- d. The Officer erred in assessing the Applicant's establishment in Canada and by using evidence of establishment against him; and
- e. The Officer made unreasonable findings in their analysis of hardship as they relate to the Applicant's separation from his faith-based community in Canada and the economic and environmental conditions in Iran

[8] The parties agree that, with respect to assessment of evidence, the Decision is reviewable on a reasonableness standard, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. A reasonable decision "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. The onus is on the Applicant to demonstrate that the decision is unreasonable: *Vavilov* at para 100.

[9] The Applicant submits, and I agree, that the standard of review for procedural fairness is akin to correctness: *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43.

### III. Analysis

[10] I find the Officer committed two errors.

[11] First, the Officer failed to meaningfully engage with the new evidence of the Applicant’s Christian faith and practice and unreasonably concluded that there was insufficient evidence to overcome the RPD and RAD’s negative credibility findings regarding the Applicant’s conversion to Christianity.

[12] Second, the Officer breached procedural fairness by making their own adverse credibility finding regarding the genuineness of the Applicant’s Christian faith without convoking an oral hearing.

#### A. *The Officer’s error with respect to their engagement with the new evidence*

[13] In support of his H&C application, the Applicant submitted extensive evidence with respect to his involvement in the Christian community. This included, among other things, the

Applicant's own affidavit, as well as nine letters and affidavits from church leaders, friends and fellow congregants.

[14] The Officer began his analysis by stating that the Applicant's main argument is that "as a Muslim apostate and Christian convert, he would face hardship in the form of discrimination and prosecution from the Sepah in Iran" and that he would be unable to openly practice his religion in Iran. The Officer then went on to examine the country conditions evidence but found that there was "insufficient evidence on file" that the Applicant "was involved in any open practice or proselytizing of Christianity in Iran," and found it "unlikely that the authorities would be aware of the applicant or his alleged conversion or would have any interest in him otherwise."

[15] Next, the Officer quoted extensively from the RPD's analysis of the Applicant's testimony, and its negative findings of the Applicant's credibility. The Officer also noted that the RAD similarly found the Applicant's testimony to be "rudimentary in details, relying on stereotypes and well-known common knowledge" and that the additional evidence of baptismal certificate and supporting letters to be insufficient in overcoming the RPD finding.

[16] When it came to the new evidence the Applicant submitted to establish his Christian faith, the Officer noted the Applicant stated he has been attending Mohabat Alliance Church regularly and that he "finds comfort in this faith-based activities around the new friends he has made." The Officer also noted the Applicant stating that he "regularly volunteers at the church."

[17] The Officer went on to note that there are “numerous letters of support from other churchgoers attesting to the applicant’s character; these letters describe the applicant as a kind, good natured person who has a positive outlook on life and sincere faith in Jesus.” The Officer also noted the Applicant stating that “he has built a life in Canada with a strong support network and if he is removed to Iran, he would lose his friends and support network in Canada, in addition to being unable to congregate with fellow Christians in the same way.”

[18] Later on in the Decision, the Officer noted that the RPD “had a first-hand opportunity to quiz him about his knowledge of Christianity which yielded rudimentary, indirect, and generalized answers leading to the finding that the applicant is not credible.” Referring to the letters the Applicant submitted as part of his new evidence, the Officer found these letters “scant on details,” and that the letters “all state that the applicant is a good-natured individual who loves Jesus and goes to church without providing any more relevant details.”

[19] Finally, reiterating that the RPD had a “first-hand” in person hearing before determining the Applicant to be not credible, and the RPD’s finding that the Applicant had “rudimentary knowledge of Christianity,” the Officer went on to find the new evidence “insufficient to overcome the RPD findings.” The Officer concluded by giving the RPD decision “high weight” while giving the adverse country conditions of the Applicant in Iran “low weight.”

[20] While I disagree with the Applicant that the Officer’s reasons amount to a boilerplate approach, citing *Velazquez Sanchez v Canada (Citizenship and Immigration)*, 2012 FC 1009 at paras 18-20, I agree that these reasons did not meaningfully engage with the evidence, including

the Applicant's own affidavit evidence and the letters from the Applicant's fellow churchgoers and priests.

[21] Starting with the support letters, I agree with the Applicant that they provide specific details and concrete examples of how the Applicant embodies Christian values and lives his life according to the value of his faith and go beyond simply describing the Applicant as a kind person with sincere faith in Jesus. In finding that these letters as "scant in details" and lacking in "relevant details," the Officer's conclusion was not logically supported by the evidence put before the Officer.

[22] I also find the Officer ignored the Applicant's personal evidence as provided through the Applicant's affidavit. I note that unlike the support letters, which the Officer explicitly acknowledged, the Decision never once mentioned that the Applicant had submitted a personal affidavit. In fact, when describing the new evidence submitted, the Officer only referred to the supporting letters but not the Applicant's affidavit and stated:

The applicant has submitted additional letters as part of this application attesting to his faith. I have carefully examined this new evidence considering the applicant's claims.

[23] It was unreasonable for the Officer to, on the one hand, acknowledge the Applicant's challenge in establishing his faith on a balance of probabilities and wonder "how anyone around him would know for certain what his faith is and what lies in his heart," yet on the other, only mention the letters from third parties but not the Applicant's own affidavit. Given the Officer's question about what "lies in [the Applicant's] heart," the Decision's silence about the Applicant's own sworn statement about his own faith is curious to say the least.

[24] Specifically, the Applicant submits, and I agree, that the Officer appeared to have completely ignored the evidence of how the Applicant's faith has grown and developed in the more than three years that had passed since his hearing before the RPD. The Applicant gave details about that journey in his sworn affidavit. The Officer did not engage with that evidence before concluding that the new evidence was insufficient to overcome the RPD negative credibility findings.

[25] The Respondent cites *Solis Mendoza v Canada (Citizenship and Immigration)*, 2021 FC 203 [*Mendoza*] confirming that a tribunal is presumed to have considered all the evidence, and that *Cepeda-Gutierrez v Canada (Minister of Citizenship & Immigration)*, [1998] F.C.J. No. 1425 [*Cepeda-Gutierrez*] stands for the proposition the contrary may be inferred where evidence was ignored as may be the case where it squarely contradicts a tribunal's conclusion: *Mendoza* at para 37. The Court also noted in *Mendoza* that the exception does have limits as *Cepeda-Gutierrez* itself states: "nor are agencies required to refer to every piece of evidence that they received that is contrary to their finding, and to explain how they dealt with it." *Mendoza* at para 38.

[26] The Respondent further argues that the Officer was entitled to consider the RPD and RAD's negative findings and gave them weight and that it was open to the Officer to find the Applicant failed to overcome the RPD and RAD's negative credibility findings in regard to the genuineness of the Applicant's conversion.

[27] I do not take issue with the legal principles that the Respondent's arguments are based upon. The question for me is to assess the Decision in light of these principles, as well as the principles set out in *Vavilov*.

[28] As the Supreme Court of Canada instructs in *Vavilov*, decision-makers must take the evidentiary record and the general factual matrix that bears on its decision into account, and its decision must be reasonable in light of them. The reasonableness of a decision may be jeopardized where the decision maker has failed to account for the evidence before it. Further, the reasons must also meaningfully account for the central issues and concerns raised by the parties.

[29] In this case, the new evidence that the Applicant submitted, including the support letters and his own affidavit all went to the central issue in the Applicant's H&C application, namely, the genuineness of the Applicant's faith. The new evidence contradicted the Officer's reasons regarding insufficient evidence about the Applicant's faith. The Officer's failure to meaningfully engage with the letters and the Applicant's affidavit, when assessing the central issue raised in the Applicant's H&C application, undermined the intelligibility, transparency and justification of the Decision.

B. *The Officer's procedural fairness breach*

[30] The Applicant submits that, separate and apart from upholding the RPD and RAD's credibility findings, the Officer made their own adverse credibility finding regarding the Applicant's Christian faith. The Applicant also submits that while the Decision did not explicitly

state the Officer was making a credibility determination, the Officer disbelieved that the Applicant is a genuine, practicing Christian. As the issue of credibility was determinative of the Officer's conclusion, the Officer failed to conduct an oral hearing as procedural fairness requires. In support of his argument, the Applicant relies on *Duka v Canada (Citizenship and Immigration)*, 2010 FC 1071 [*Duka*]; *A.B. v Canada (Citizenship and Immigration)*, 2020 FC 498 [*A.B.*].

[31] The Applicant points to the following paragraph in the Decision to support his argument:

With respect to making friends and integrating with the church community, the evidence persuades me that this was undertaken for the sole purpose of establishing a reason he needs to stay in Canada. As such, I do not believe he would suffer any hardship on account of being a Christian due to adverse county conditions.

[32] I agree with the Applicant.

[33] As the Court explained in *A.B.*:

[95] Determining whether veiled credibility findings are present in a decision requires going beyond the actual words used by an officer; it is necessary to determine the basis for the decision even if the officer expressly declares he or she is not making a finding on credibility. The Court must first determine whether a credibility finding was made, explicitly or implicitly. If so, the Court must determine if the issue of credibility was central to or determinative of the decision (*Majali v Canada (MCI)*, 2017 FC 275 at paras 30 and 31).

[34] In this case, I find the Officer made credibility findings by stating that they believed the Applicant undertook his church activities so as to establish a need to stay in Canada. In fact, right before making this finding, the Officer made an explicit credibility finding when they stated:

“[The Applicant] has failed to provide sufficient evidence to overcome the RPD and RAD decisions *therefore I do not find him to be a credible Christian believer*:” [Emphasis added].

[35] These findings are clearly credibility findings and are not, as the Respondent submits, findings of insufficiency of evidence. I also reject the Respondent’s contention that the Officer simply gave the RPD and RAD decisions more weight in considering the Applicant’s evidence of the genuineness of his Christian faith. The Officer did more than adopting the RPD and RAD’s findings.

[36] The Respondent cites *Delille v Canada (Citizenship and Immigration)*, 2017 FC 508 [*Delille*] at para 48, to argue that procedural fairness does not require that an interview take place when evaluating an H&C application. Citing *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 [*Baker*], the Court in *Delille* found that what is required is meaningful participation in the process. The Court also found that sufficiency of the evidence is not to be supplemented with an interview, and that it is the duty of an applicant to put her best foot forward. Finally, the Court noted that contradictions in the evidence submitted are not credibility issues; they go to the sufficiency of the evidence.

[37] I find *Delille* distinguishable on the facts. Unlike *Delille*, the Officer in this case did not make any findings about contradictions in the evidence submitted by the Applicant. The Applicant in the herein matter is also not arguing that the Officer has an obligation to “highlight weaknesses in an application and to request further submissions:” *Delille* at para 50.

[38] The Respondent also cites *Tarafder v Canada (Citizenship and Immigration)*, 2013 FC 817 [*Tarafder*] at paras 38-42 where the Court distinguished *Duka*, noting in that case the applicant had raised a new risk factor for the first time in her H&C application, whereas in *Tarafder*, the applicant merely reiterated risks that have already been examined by the Immigration and Refugee Board [IRB] which determined that the applicant was not credible. The Respondent therefore argues that the decisions relied on by the Applicant are distinguishable as in both *Duka* and *A.B.*, the applicants' refugee claims had been made based on different grounds with different facts than those set out in their H&C applications and as such the officers were not weighing the previous decisions against the new evidence presented.

[39] I am not convinced that the Court in *Tarafder* distinguished *Duka* solely based on the fact that the applicant was relying on the same claim as assessed by the IRB. At para 38, in the same paragraph cited by the Respondent, the Court in *Tarafder* went on to note that unlike *Duka*, credibility was not an issue with regards to all other factors and allegations in the applicant's H&C application, which the officer found were credible and properly supported by the documents provided.

[40] Further, while the Applicant in this case is relying on the same ground as his refugee claim, I disagree with the Respondent that the Applicant is relying on the same facts. On the contrary, the new evidence the Applicant submitted speaks to the new facts that arose over the course of three years since the RPD hearing. As the new evidence was not before the RPD, it could also not have been assessed previously.

[41] Finally, as I find that the Officer made an explicit credibility finding, the situation in this case is therefore more analogous to *Duka* and *A.B.* than *Tarafder*.

[42] For these reasons, I find that the Officer should have convoked an oral hearing and their failure to do so did constitute a procedural fairness breach.

#### IV. Conclusion

[43] The application for judicial review is granted.

[44] There is no question for certification.

**JUDGMENT in IMM-1683-21**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is granted and the matter sent back for redetermination by a different officer.
2. There is no question for certification.

"Avvy Yao-Yao Go"

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1683-21

**STYLE OF CAUSE:** MOHAMMAD GHAMOUSHI RAMANDI v  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD VIA VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 26, 2022

**JUDGMENT AND REASONS:** GO J.

**DATED:** MAY 12, 2025

**APPEARANCES:**

Krysten Loyd	FOR THE APPLICANT
Catherine Vasilaros	FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Jared Will Jared Will & Associates Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT