Federal Court  Cour fédérale

Date: 20250529

Docket: IMM-8823-24

Citation: 2025 FC 972

Toronto, Ontario, May 29, 2025

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

YODIT SHUMAY GEBREHIWET

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Yodit Shumay Gebrehiwet, the Applicant, seeks judicial review of a decision by an Officer of Immigration, Refugees and Citizenship Canada [IRCC] dated February 12, 2024 [Decision]. In their Decision, the Officer refused the Applicant's claim for permanent residence in Canada as a member of the Convention Refugee Abroad class, pursuant to section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], and as a member of the Country of Asylum Class, pursuant to sections 139(1)(e) and 145 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*].

[2] In brief, the Applicant argues that the Officer made unreasonable credibility findings, failed to consider her refugee status as recognized by the United Nations High Commissioner for Refugees [UNHCR], and failed to properly assess her fear of persecution or her eligibility for the Country of Asylum Class. The Applicant also submits issues of procedural fairness regarding the lack of *verbatim* interview notes.

[3] The Minister of Citizenship and Immigration [Minister], the Respondent, essentially submits that the Officer's credibility findings were reasonable, that they did not err in their grounds of persecution or Country of Asylum Class assessments, and that the Officer reasonably considered the Applicant's UNCHR status. The Minister further submits that there were no issues of procedural fairness in the present matter.

[4] For the reasons that follow, the application for judicial review will be dismissed.

II. Summary of the Facts

[5] The Applicant is a citizen of Eritrea. In December 2019, the Applicant allegedly walked across the border from Eritrea into Ethiopia and was assigned to reside in a refugee camp. While in Ethiopia, she obtained registration as a refugee from the UNHCR.

[6] In February 2022, she applied for permanent residence under the Convention Refugee Abroad Class. She claimed to face persecution in Eritrea as a result of her involvement with the Ministry of Transportation of the Eritrean system of national service. She claimed to have served the Ministry for a period of six years prior to leaving Eritrea. She claimed to have abandoned her

service on several occasions during her service but was found each time and forced to return to serve. She claimed that she was taken from her house and threatened for not recording her absence.

[7] On February 5, 2024, she attended an interview as part of her application to Canada. The Officer released their Decision on February 12, 2024, denying the Applicant's claim.

III. Decision under Review

[8] As it appears from the Decision, the Officer found that the Applicant had not made out a well-founded fear of persecution based upon her race, religion, nationality, membership in a particular social group or political opinion, and that she had not met the requirements of the Country of Asylum Class either. More specifically, the Officer had substantial credibility concerns with the evidence provided by the Applicant as her testimony during the interview did not match key aspects of her Schedule 2 form attached to her application, even when prompted, including regarding the Applicant's motivation for leaving Eritrea. Below are relevant passages of the Decision:

> After carefully assessing all factors related to your application, I am not satisfied that you are a member of any of the prescribed classes for the following reasons:
>
> The narrative in the Schedule 2 attached to your application is very general in nature and did not match your testimony at the interview. You waited many years to decide to flee Eritrea. Your Schedule 2 narrative stated that you were taken from your house and threatened for not recording your absences. Yet, when requested to provide reasons why you left Eritrea during your interview, you quoted general country conditions and low salary as a motivation to flee. You could not provide a triggering event to justify your reasons for

> leaving. You succeeded in functioning within the system for many years, despite the poor pay and lack of job mobility.
>
> - During your interview, you did not mention, despite prompting, that you endured rough treatment at the hands of your superiors at the Ministry of Transport. You occupied a stable, low profile position issuing Driving licences and followed the rules, resulting in a quiet National Service assignment. This leads me to believe that the narrative in your schedule 2 alleging mistreatment at the hands of your superiors is not credible and fabricated.
>
> - You waited six years to decide to flee Eritrea. No evidence was submitted that you were targeted for mistreatment, persecution, or had to endure difficult conditions other than low pay and lack of job mobility. When pressed whether your motivation to flee Eritrea was economic, you indicated that you were frustrated with the lack of opportunities and upward mobility.
>
> As a result, I am satisfied that the evidence that you have presented is not credible. I am therefore satisfied that you do not have a well-founded fear of persecution based upon your race, religion, nationality, membership in a particular social group or political opinion. I further considered the country of asylum class and am satisfied that you do not meet the requirements of this class either.

[9] An Officer's Global Case Management System [GCMS] notes form a part of their reasons for decision (*Soubeh v Canada (Citizenship and Immigration)*, 2021 FC 1144 at para 24; see also *Agbai v Canada (Citizenship and Immigration)*, 2025 FC 101 at para 37). The conclusion listed in the Officer's GCMS Notes states:

> I have the following concerns about the credibility of the evidence presented by the applicant: She provided inconsistent, and contradictory testimony relating to the material aspects of her claim. I am not satisfied, on balance, that the evidence presented by the applicant is credible. ***OFFICER REVIEW – PA PLEASE SEND REFUSAL LETTER – CREDIBILITY APPLICATION REVIEWED THIS DAY. – The applicant's narrative in her Schedule 2 is very general in nature and does not match her testimony in interview. – It took the applicant many years to decide to flee Eritrea.

> During her interview she quoted general country conditions and salary as a motivator to flee, yet could not provide a triggering event to motivate her reasons for leaving. She managed to function within the system for several years, despite the poor pay and lack of job mobility. -Nowhere during her interview did the applicant mention that she endured rough treatment at the hands of her superiors as outlined in her Schedule 2. She occupied a stable, slow profile, administrative position issuing driving licenses at the Ministry of Transport and followed the rules. This contradicts the narrative in her Schedule 2 which states that she was mistreated by her superiors. This leads me to believe that the applicant's narrative in the Schedule 2 is not credible and fabricated. -The applicant worked in the National Service system for many years. No evidence was submitted at her interview that she was targeted for mistreatment, or persecution, and stated that economic conditions such as low pay, lack of job mobility and inability to work elsewhere were prime motivators in her decision to leave the country. Consequently, I do not find the applicant to be credible as the basis of the stated fear of persecution is substantively different between the written and stated reasons. Consequently, I do not concur with the decision of UNHCR or the host country to extend refugee states to this applicant. Applicant was presented with such concerns at interview, and I am not satisfied with the applicant's response. Application refused for lack of credibility.

IV. Submissions to this Court

A. *The Applicant's Submissions*

[10] The Applicant submits that the Decision is not reasonable and raises issues of procedural fairness. In support of her position, she raises numerous arguments that can be summarised as follows.

(1) Delayed Departure

[11] The Applicant argues that her delay in leaving Eritrea should be understood in the context of her cumulative experiences of persecution and the realistic fears she had. The delay should not be the sole factor in assessing credibility when claims involve cumulative incidents of discrimination or harassment culminating in a forced departure.

(2) The Applicant's motive

[12] The Applicant argues that the Officer failed to apply the mixed motive approach of determining nexus of a Convention ground if the Applicant's ground was economic as it alleges. A motive cannot be "purely" economical if there is evidence that indicates there is a racial component as well (*Gonsalves v Canada (Attorney General)*, 2011 FC 648 at para 29).

(3) Alleged contradiction

[13] The Applicant argues that adverse credibility findings must relate to the central aspect of their claim, must be significant, and "should not be based on a microscopic evaluation of issues peripheral or irrelevant to the case" (*Clermont v Canada (Citizenship and Immigration)*, 2019 FC 112 at para 30). Moreover, the Applicant's explanations must be considered if they are not manifestly implausible. If the Officer required further detail from the Applicant, they should have alerted her and allowed her the opportunity to address such concerns (*Jurado Barillas v Canada (Citizenship and Immigration)*, 2019 FC 825 at para 18).

(4) Officer failed to consider all grounds of persecution and risk profile and erred in assessing whether the Applicant met the definition of Country of Asylum Class

[14] The Applicant submits that the Officer failed to consider all grounds of persecution and risk profiles inferred from the evidence.

[15] Furthermore, the Convention Refugee Abroad Class and member of Country of Asylum Class have distinct criteria that must be assessed separately. It is crucial not to confuse foreign nationals that meet the definition of a Convention Refugee and those that meet the criteria of the Country of Asylum Class. The Decision provides no insight into the reasoning process that led the Officer to find the Applicant is not a member of the Country of Asylum Class.

(5) Officer failed to consider the Applicant's UNCHR refugee status

[16] The Officer failed to meaningfully consider the Applicant's status as a Convention Refugee through the UNHCR. This Court's jurisprudence confirms that the fact that an applicant has been granted refugee status by the UNHCR or by a state which is a signatory to the Refugee Convention is a relevant factor that an officer should consider. Further, an officer should explain why the UNHCR designation is not being followed (*Teweldbrhan v Canada (Citizenship and Immigration)*, 2012 FC 371 at paras 20-24; *Tekle v Canada (Citizenship and Immigration)*, 2022 FC 845 at para 39).

(6) There is a breach of procedural fairness

[17] The jurisprudence states it is necessary that time and care are "taken during interviews to ensure that accurate, and if possible, verbatim questions and responses are recorded for later meaningful review" (*Jassal v Canada (Citizenship and Immigration)*, 2004 CanLII 71189 (CA IRB) at para 11). An incomplete record due to a lack of transcript of an interview and/or hearing is a breach of procedural fairness (*Bautista v Canada (Minister of Citizenship and Immigration)*, 2004 FC 781 at para 6).

B. *The Respondent's Submissions*

[18] The Minister argues that the Officer's credibility findings, including the Applicant's delayed departure and her motives for leaving, are owed deference and that the Court should not interfere with or reweigh the evidence where a decision-maker's inferences and conclusions are reasonably open to them on the record (*Gebrewldi v Canada (Citizenship and Immigration)*, 2017 FC 621 at paras 13-17 [*Gebrewldi*]; *Noori v Canada (Minister of Citizenship and Immigration)*, 2017 FC 1095 at paras 16-20; *Melesse v Canada (Citizenship and Immigration)*, 2024 FC 915 at para 15 [*Melesse*]).

[19] Here, the Minister submits the Officer's concerns were not unduly microscopic or peripheral since the substance of the Applicant's refugee claim is persecution because of her national service and alleged attempts to escape it. The Applicant's arguments regarding overlooking inconsistencies between her narrative and interview responses is a request to reweigh

the evidence. The Officer is uniquely placed to assess evidence given in an interview (*Walu v Canada (Citizenship and Immigration)*, 2021 FC 824 at para 65 [*Walu*]).

[20] The Applicant's evidence was inconsistent and implausible because the Applicant did not allege a pattern of escalation regarding her claim and was not able to identify a triggering event that caused her to leave Eritrea when she did, even after being prompted by the Officer. Furthermore, she conceded that her delayed departure can be a factor in assessing her subjective fear.

[21] Essentially, the Applicant now argues that she is effectively a refugee *sur place* because she left Eritrea illegally, avoided national service, would putatively be returning as a failed asylum seeker, and had not paid the Eritrean "diaspora tax". However, an officer is not required to assess risk that is not raised by a claimant (*Fisehaye v Canada (Citizenship and Immigration)*, 2022 FC 1358 at paras 49 – 51 [*Fisehaye*]).

[22] Unfavourable country conditions alone cannot ground a refugee claim if the claimant has failed to establish a link between their situation and persecution in their country (*Abreham v Canada (Citizenship and Immigration)*, 2020 FC 908 at para 23 [*Abreham*]). The Applicant did not lead any personal or country condition evidence that linked the conditions in Eritrea to her personal circumstances (*Walu* at para 78).

[23] Further, the Minister adds that the Applicant has not asserted, explained or demonstrated the risk that she is facing returning to Eritrea. If her Canadian application is unsuccessful, she may

remain in Ethiopia as a Convention Refugee. Therefore, it was not necessary for the Officer to assess the Applicant's risk in returning to Eritrea as a failed asylum seeker.

[24] The Officer's reasons regarding Country of Asylum Class were not unreasonable because the distinction between the two classes relates to whether the reason for persecution is linked to a Convention ground, or whether the claimant has been severely and personally affected by civil war, armed conflict, or massive violations of human rights. The Officer found that the Applicant did not credibly establish she had been subject to persecutory conduct in Eritrea, and this is applicable to both classes of refugee.

[25] As for the Applicant's UNHCR proof of registration, the Officer took note of it but reasonably determined that the Applicant's lack of credibility undermined this evidence. Further, the Applicant's status as a UNHCR-registered refugee was not determinative of her application under the classes, and a finding of no-well founded fear of persecution can overcome a claimant's UNHCR recognition (*Teklu v Canada (Citizenship and Immigration)*, 2023 FC 1232 at para 33; *Walu* at paras 5, 69-74; *Zeweldi v Canada (Citizenship and Immigration)*, 2020 FC 114 at paras 78-79 [*Zeweldi*]; *Gebrewldi* at paras 28-34; *Fisehaye* at paras 54-56).

[26] The Officer reasonably determined the Applicant's claim was not credible and did not establish a well-founded fear of persecution. An articulated finding of lack of credibility is a sufficient explanation for not following the Applicant's UNHCR designation (*Abdisa v Canada (Citizenship and Immigration)*, 2024 FC 25 at para 31; *Abreham* at para 22).

[27] Lastly, the Minister argues that the Applicant has provided no relevant caselaw regarding the necessity for *verbatim* questions and responses of interview notes. On the contrary, the Court has previously accepted the reliability and fairness of notes prepared in the same way at the present matter (*Singh v Canada (Citizenship and Immigration)*, 2020 FC 687 at paras 36-37). Further, the Officer's pages of interview notes are lengthy and detailed and relate the entire progress of the interview.

V. Analysis

A. *General Statement of the Law*

[28] An applicant bears the burden of proof to adduce evidence to justify the conclusions they seek (*Hungbeke v Canada (Citizenship and Immigration)*, 2020 FC 955 at para 46 citing *Atahi v Canada (Citizenship and Immigration)*, 2012 FC 753 at para 21; *Alakozai v Canada (Citizenship and Immigration)*, 2009 FC 266 at para 33; *Salimi v Canada (Citizenship and Immigration)*, 2007 FC 872 at para 7).

[29] Where a concern arises during an interview, any duty to inform an applicant of the concerns is met where the Officer asks reasonable questions about the concerns and provides the applicant an opportunity to respond (*Radiyeh v Canada (Citizenship and Immigration)*, 2022 FC 1234 at para 21; *Rahim v Canada (Citizenship and Immigration)*, 2006 FC 1252 at paras 14-16).

[30] Negative findings of credibility and related factual findings are particularly within the expertise of the Officer, whether the finding is based on the applicant's demeanor during an interview or in the way in which they answered questions, inconsistencies, or on the implausibility

of the evidence (*Zeweldi* at para 74 citing *Kabran v Canada (Citizenship and Immigration)*, 2018 FC 115 at para 42).

B. *Standard of Review*

[31] Both parties submit that the applicable standard of review is reasonableness. I agree. This is in line with the Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 16 [*Vavilov*] (see also *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [*Mason*]).

[32] In *Smajlaj v Canada (Citizenship and Immigration)*, 2025 FC 821, Justice Gascon provides a good summary of the role of a reviewing Court when the standard of review is reasonableness:

> [11] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85; *Mason* at para 64). The reviewing court must therefore ask whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). Both the outcome of the decision and the decision maker's reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).
>
> [12] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a "reasons first" approach and begin its inquiry by examining the reasons provided with "respectful attention," seeking to understand the reasoning process followed by the decision maker to arrive at its

> conclusion (*Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13), without "reweighing and reassessing the evidence" before it (*Vavilov* at para 125).
>
> [13] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

[33] With respect to procedural fairness, although no standard of review is applied, the Court's exercise of review is "best reflected in the correctness standard" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*Canadian Pacific Railway*]; see also *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57). The Court must ask whether the process was fair in view of all the circumstances: "the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to respond." (*Canadian Pacific Railway* at paras 54, 56)

C. *The Decision is Reasonable.*

[34] The Court agrees with the Minister that the Officer's credibility finding was reasonable and is entitled to much deference (*Melesse* at para 15).

[35] The Court also agrees with the Minister that the Officer did not solely rely on the Applicant's delayed departure, minor inconsistencies, or peripheral issues in their credibility assessment because the Applicant's reasons for leaving Eritrea was central to her claim (*Walu* at para 60).

[36] Credibility findings are justified when there are contradictions in the Applicant's testimony that "provide a reasonable basis for finding the claimant to lack credibility, but such contradictions must be real and more than trivial or illusory" (*Walu* at para 55, citing *Rahal v Canada (Citizenship and Immigration)*, 2012 FC 319 at paras 41-46).

[37] During the interview, the Officer asked relevant questions, identified the responses that led to the credibility concerns and put the credibility concerns squarely to the Applicant (*Walu* at para 52). Similar to the *Walu* case, the Officer asked about the Applicant's departure from Eritrea, her time in the refugee camp, and her registration with the UNHCR. The Officer noted inconsistencies with the Applicant's answers, gave her a chance to address these concerns and her responses did not satisfactorily explain the contradictions (*Walu* at para 53).

[38] Furthermore, the Court agrees with the Minister that the Officer reasonably focused on the assertions of risk articulated by the Applicant. The Court has held that a claim for Convention Refugee Status "cannot succeed solely based on the unfavourable human rights conditions in the country of origin. Claimants must establish a link between themselves and persecution in that country" (*Walu* at paras 74-77 citing *Gebrewldi* at paras 27, 35 *Abreham* at para 23).

[39] More specifically, while there is no doubt that the human rights situation in Eritrea is unfortunate, the Applicant did not "demonstrate a link between their personal situation and the situation in their country of origin" (*Walu* at para 75 citing *Gebrewldi* at para 27). Given that the Officer found that the Applicant's evidence about what happened to her in Eritrea was not credible, "the Officer was not required to proceed to assess [her] eligibility in the country of asylum or source country class" (*Walu* at para 78).

[40] Therefore, the Officer did not err in not assessing the Country of Asylum Class. It is established that "the failure to establish the facts upon which an application is based can lead to the rejection of the entire claim on the ground that there is a lack of credibility" (*Gebrewldi* at para 25 citing *Ameni v Canada (Citizenship and Immigration)*, 2016 FC 164 at para 13). The Officer reasonably found that the Applicant's evidence was not credible because it was undermined by numerous inconsistencies and discrepancies. Consequently, the Officer could not conclude whether the Applicant satisfied the requirements under either section to be a Convention Refugee (s 96 of the *IRPA)* or a member of the Country of Asylum Class (s 147 of the *IRPR*).

[41] The Court also agrees with the Minister that the Officer did not fail to consider the Applicant's UNHCR status and in fact, made express reference to it at the beginning of their GCSM Notes, showing that they were aware of that status (*Abreham* at para 22). The Officer then assessed the Applicant's forward-facing risk and "based their decision on the evidence presented to them in the application and the interview, which is what is required by the test for refugee status under the IRPA" (*Fisehaye* at para 55).

[42] The Applicant's UNHCR status is not determinative of her application under either class, as it would eliminate the Officer's role in assessing her credibility, and the criteria of the *IRPA* and the *IRPR* would be redundant (*Walu* at para 69; *Gebrewldi* at para 28). Despite acknowledging her UNHCR status, the Officer still had the duty to conduct their own assessment of the Applicant's credibility (*Walu* at para 71, citing *Gebrewldi* at para 28). Here, as in *Walu* and *Gebrewldi*, the Officer was justified in curtailing the evaluation of the applicants' claim based on finding that they were not credible (*Walu* at paras 72, 74). The Officer found that key elements of the Applicant's

claim lacked credibility, and this was sufficient to explain why her UNHCR status did not meet the *IRPA* and *IRPR* criteria (*Walu* at para 74; *Gebrewldi* at para 35).

[43] Lastly, this Court also agrees with the Minister that there was no breach of procedural fairness. The Applicant has not provided an authority for the proposition that an interview must be recorded *verbatim*, and the Court has accepted similar formats of the Officer's GCMS Notes in other matters (e.g., *Fageir v Canada (Citizenship and Immigration)*, 2021 FC 966 at para 17; *Yhdego v Canada (Citizenship and Immigration)*, 2017 FC 1172 at para 22).

VI. Conclusion

[44] For these reasons, the Decision was reasonable and therefore, the application for judicial review will be dismissed.

JUDGMENT IN IMM-8823-24

THIS COURT'S JUDGMENT is that:

1. The judicial review application is dismissed.

2. No question of general importance is certified.

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"Danielle Ferron"

blank Judge

FEDERAL COURT

SOLICITORS OF RECORD

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