

Federal Court



Cour fédérale

Date: 20250605

Docket: IMM-6160-24

Citation: 2025 FC 1019

Toronto, Ontario, June 5, 2025

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

MANNIMEHALAI DAYANIDIY

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mrs. Mannimehalai Dayanidiy, the Applicant, is a female Tamil citizen of Sri Lanka. She seeks the judicial review of a decision by the Refugee Appeal Division [RAD] dated March 20, 2024 [Decision]. In its Decision, the RAD dismissed the Applicant's appeal of the Refugee Protection Division [RPD]'s decision and agreed with the RPD that the Applicant was neither a Convention refugee nor a person in need of protection pursuant to paragraph 111(1)(a) of the

Immigration and Refugee Protection Act, SC 2001, c 27 [the Act]. The determinative issue before the RAD was whether the RPD committed critical credibility or forward-facing risk assessment errors.

[2] In brief, the Applicant argues that the Decision is unreasonable in that the RAD (1) erred in its assessment of her credibility; (2) failed to assess the corroborating evidence; (3)°failed to adequately assess her residual profile; and (4) erred in its assessment of her husband's signatures.

[3] The Minister of Citizenship and Immigration [Minister], the Respondent, essentially submits that the Decision is reasonable and that the Applicant's submissions amount to an impermissible attempt to seek a reweighing by this Court of the Applicant's evidence before the RAD.

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

II. Facts

[5] The Applicant's son left Sri Lanka in November 2011 and, on June 8, 2018, was granted refugee status in Canada as he was suspected of being a supporter of the Liberation Tigers of Tamil Eelam [LTTE]. In the reasons of the RPD granting her son's refugee claim, it noted that the son's father, i.e., the Applicant's husband, had disappeared since 2016 and his whereabouts were still unknown.

[6] Between April 2017 and June 2019, the Applicant applied for and was refused four temporary resident visa [TRV] applications. The three latest applications were allegedly made to attend her son's wedding.

[7] In support these three latest TRV applications, the Applicant submitted several letters of support, including one from a member of Parliament, and statutory declarations which stated that her husband would not be attending their son's wedding as he would be managing the farming business while the Applicant was away. One of the letters dated February 22, 2019, was allegedly signed by the Applicant's husband. A copy of this letter from the husband was subsequently allegedly certified by a justice of the peace. Further, a letter dated May 17, 2019, from a Canadian law firm stated that the Applicant's husband was evidence of her strong family ties in Sri Lanka.

[8] On August 5, 2020, the Applicant entered Canada with a visitor visa. She returned to Sri Lanka on June 9, 2022.

[9] On July 6, 2022, she re-entered Canada with her visitor visa and on December 8, 2022, the Applicant submitted her refugee claim.

[10] In her Basis of Claim form [BOC], she alleges, *inter alia*, that (1) her son was arrested and treated poorly by the Sri Lankan army who suspected him of being a LTTE member, which resulted in him going to Canada in November 2011; (2) after her son left Sri Lanka, the army came to their family home and took her husband in February 2012; (3) she never saw her husband again; (4) she was subsequently able to maintain a quiet life living on her own; (5) after multiple visa

applications were rejected, she was able to visit her family in Canada from August 2020 to June 2022; (6) when she returned in Sri Lanka, she was questioned twice by airport officers and army intelligence officers about her son and husband; and (7) she fears the Sri Lankan army.

[11] On July 27, 2023, the hearing before the RPD was held. During this hearing, the RPD raised numerous inconsistencies between the Applicant's BOC, the evidence filed in support of her previous TRV applications, and the information provided by her son in support of his refugee claim. For instance, during this hearing, the Applicant stated her husband went missing in 2012, which was in clear contradiction with the letter allegedly signed by her husband on February 22, 2019, filed in support of her TRV application, and in contravention with her son's refugee claim that indicates that his father went missing in 2016. When the RPD questioned her on these discrepancies, and as to the similarity with her husband's signature in his passport signed in 2009 and his signature on the February 22, 2019 letter, she explained that her son and an agent completed all her TRV applications, and since she did not read or speak English, she did not know about the contents of these applications.

[12] On November 20, 2023, the RPD found on a balance of probabilities that the material aspects of the Applicant's claim were not credible because there were significant inconsistencies, the use of false documentation and/or information to obtain her TRV, lack of sufficient supporting documentation and vagueness in testimony which could not be reasonably explained.

[13] Amongst them, the RPD noted the following:

[12] I asked the claimant to explain the inconsistency about her husband's whereabouts in the BOC form, her testimony at the hearing and the Letters of Support provided to support her Visa application. The claimant responded that every documentation used for her Visa application was made by her son and an agent, she further stated that she does not know the contents of the Letters of Support for her Visa application because they were compiled by her children and the agent.

[13] I find the response of the claimant to this material inconsistency evasive because the claimant's BOC does not state that the claimant used the services of an agent for her Visa application even though the claimant directly referred to these Visa applications in her BOC form. The claimant also stated at that same paragraph in her BOC that she had a quiet life as at the time the Visa application was made, and I draw a negative inference from it that the claimant supplied false information in her Visa application when her life was not at risk or in danger.

...

[15] The Counsel during submissions stated that the claimant used an agent for her Visa application. The Counsel submitted that immigration applications are not like other corporate applications because agents are usually not lawyers and people are taken advantage of by these agents who submit incorrect information to create ties that will get their client's visa application approved. The Counsel further submitted that the claimant was not aware of these discrepancies and should not be held accountable for the discrepancies stating that she did not review all the documents the agent submitted on her behalf. I do not accept the Counsel's submission as reasonable because there was included in the Visa application a letter from the claimant's counsel Niren & Associates Immigration Law Firm located at 20 Eglinton Avenue West, Suite 202 Toronto ON Canada dated May 17th, 2019 which stated that the claimant resides with her husband as proof of her strong family ties in Sri Lanka. This letter is written by a Law Firm in Canada and not by an agent and the lawyers would not have asked the claimant to lie about her circumstances. The onus is on the claimant, represented by counsel to establish her claim that the claimant is not aware of the contents of the Letters of Support, and I find that this burden has not been discharged by the claimant.

[16] The Claimant in her evidence stated that she maintained a quiet life before she travelled to Canada in August 2020. I draw an inference from her evidence that she maintained a quiet life to mean that her life was not at risk or in danger because the claimant

returned to Sri Lanka in June 2022. I find that claimant return to Sri Lanka in June 2022 is an indication of lack of subjective fear before and as at the time she traveled in August 2020 therefore there was no justifiable reason to provide false information about her husband's whereabouts to obtain a Visa. In *Shao v. Canada* the Information the applicant provided in his application for a Canadian visitor's visa differed in material respects from information he provided subsequently in support of his claim for refugee protection. The Refugee Protection Division found that the Applicant was not credible and, rejected his refugee claim. On appeal, the Refugee Appeal Division rejected all of the grounds on which the Applicant challenged the RPD's conclusions and confirmed the RPD's findings. The Court concurred with the RAD's conclusions, finding that it was open to the RAD to draw adverse credibility findings given the applicant's use of a smuggler when he was not fearing persecution and the application was dismissed. Similarly, the claimant's use of an agent and other means to submit information that she now alleges are unknown to her when her life was not at risk was with an intention to mislead the Canadian immigration authorities as well as a breach of the claimant's duty of candour to misrepresent material facts to serve a personal agenda.

[17] The claimant referred to her son's persecution as the reason for her husband's disappearance in her BOC form. During the hearing, I asked the claimant why her son has not given her a letter of support to corroborate her testimony that her son provided the misinformation about her husband's whereabouts, and she responded that she did not think it was necessary.

[18] At the close of the hearing, the claimant was given more than sufficient time to provide post-hearing documents.

[19] The claimant provided post hearing document which is a letter giving consent for the Board to access the son's refugee claim TB1-18835.

[20] I reasonably expected that the son's refugee claim will shed more light about the whereabouts of the claimant's husband who is also the biological father to the claimant's son however the decision in that claim further introduced more inconsistency into the claimant's testimony when the member who presided over the hearing held on May 25th, 2018 stated in her Reasons for the Decision of the refugee claim for Kajanthan Thayanithy as follows "In fact, the claimant's father has disappeared since the year 2016 and his whereabouts are still unknown." At the hearing, the claimant had repeatedly testified that her husband went missing in February 2012. The inconsistency between the claimant's son refugee

decision that he went missing in 2016 and the claimant's testimony that he went missing in 2012 does not assist in overcoming my credibility concerns.

[21] Furthermore, there was still no letter of support from the son. The claimant has shown that she is aware of the importance of producing documentation by producing a letter of support from her daughter and her other disclosures. It is therefore reasonable to expect the claimant to obtain a letter of support from her son who she alleges provided false information to the agent on her behalf and given that the whereabouts of her husband is material to her claim. Therefore, I draw a negative credibility inference from this failure to provide sufficient credible evidence.

[14] The RPD found that these were more than sufficient to rebut the presumption that the Applicant was telling the truth. The RPD therefore found that the Applicant was not a Convention refugee under section 96 of the Act nor a person in need of protection under section 97 of the Act.

III. Submissions to the RAD

[15] On February 6, 2024, the RAD received an application for an extension of time to perfect an appeal from the Applicant. In support of this application, the Applicant filed the affidavit of her son, in which the latter explained that the Applicant relied on him to make all arrangements necessary for the appeal.

[16] On February 29, 2024, after successfully obtaining an application for an extension of time to perfect her appeal, the Applicant essentially submitted to the RAD that:

1. The RPD erred in rejecting the Applicant's explanation for the inconsistency between her BOC and her TRV applications with respect to her husband being missing, which was that an agent assisted her to prepare documents for the visa application;
2. The RPD speculated that the signature of the Applicant's husband on the passport (2009) and on the support letter (2019) were identical and so the husband was not deceased or missing; however, she submits that it is unlikely that a person's signature would be identical ten years apart. The Applicant added that she did not say that her son had supplied the signatures to the agent. In the alternative, she argued that the signatures are similar, and it is credible that the signature could have been faked;
3. The RPD erred in drawing a negative inference from the fact that the Applicant did not produce a letter from the son, since a claimant does not have to corroborate every element of the claim or indeed any element;
4. The RPD erred in not giving due weight to the corroborating letters of the Applicant's daughter and the Applicant's neighbour; and
5. As a Tamil woman without a male protector and a returnee as a failed refugee claimant, the Applicant is uniquely vulnerable; thus, there is more than a mere possibility of persecution (section 96) and there is a personalized risk as described in paragraphs 97(1)(a) and (b) of the *Act*.

IV. Decision under Review

[17] On March 20, 2024, the RAD dismissed the Applicant's appeal and confirmed the RPD's decision. More specifically, the RAD found that:

1. The determinative issue was whether the RPD committed critical credibility or forward-facing risk assessment errors;
2. According to the central allegations, the Applicant did not have a subjective fear of government persecution in Sri Lanka when her son submitted the TRV application for her;
3. The RAD accepted that the RPD had overlooked the corroborating letters from the Applicant's daughter and the neighbour, and that the RPD should not have expected the Applicant herself to know the contents of her TRV application, for the reasons she argued. However, the RAD agreed with the RPD that, since the RPD gave her an opportunity, the Applicant should have produced evidence from her son to explain why he allegedly put false information in her TRV application, and why he told the RPD in his claim that his father disappeared four years later than the date the Applicant gave during her testimony; and
4. The contradictions between the central allegations in the Applicant's claim, the central allegations in her son's claim, and the contents of her TRV application remain unexplained, with no explanatory evidence from her son to reasonably account for them.

[18] The RAD therefore drew a negative credibility inference from these contradictions and found that this negative credibility inference was heavy enough to outweigh the combined positive weight that the RAD assigned to the corroborating letters from the Applicant's daughter and the neighbour.

[19] With respect to similarities between the Applicant's husband's genuine signature on his Sri Lankan passport and the allegedly false signature on a 2019 letter of support - allegedly fabricated by the agent and her son to support her TRV application, the RAD rejected the Applicant's argument that a person's signature is unlikely to remain the same after ten years. The RAD found that the Applicant had provided no authority or evidence to back her assertion and therefore drew another negative inference.

[20] As to the Applicant's residual profile, the RAD rejected, on a balance of probabilities, the Applicant's argument that the RPD overlooked country documentary evidence indicating that there was a serious possibility that she would suffer government persecution when she returns to Sri Lanka simply by reason of being a failed asylum seeker even if all the central allegations in her claim are false. The RAD stated that it reviewed the country documentary evidence and acknowledged that this evidence indicated that some failed asylum seekers do face a serious possibility of government persecution upon return to Sri Lanka. However, the RAD noted that the Applicant did not fit that residual risk profile as an elderly Tamil female, as it found on a balance of probabilities, that her allegations of past government suspicion toward her and her family were all false.

[21] In summary, the RAD found on a balance of probabilities, that the Applicant was not a credible or trustworthy witness and that all the central allegations in her claim were false. The RAD therefore found that it had insufficient credible evidence upon which the RAD could determine her to be a Convention refugee or a person in need of protection. The RAD also found that the Applicant did not face a serious possibility of persecution on a Convention ground and, on a balance of probabilities, would not be personally subjected to a danger of torture, to a risk to her life or to a risk of cruel and unusual treatment or punishment if she returns to Sri Lanka.

V. Submissions to this Court

A. *The Applicant's submissions*

[22] First, the Applicant submits that the RAD did not assess the credibility of all of her allegations, nor did it provide any justification for dismissing each of them. According to the Applicant, the central allegations of her claim consisted of five separate events, namely:

1. She was arrested and questioned twice during the Sri Lankan war in 2008;
2. Her son was suspected of being an LTTE member and was arrested and tortured on several occasions, which ultimately led to him fleeing Sri Lanka and seeking refuge in Canada. He was recognized as a refugee in Canada;
3. Her husband was taken by the army after her son left Sri Lanka and she never saw him again;

4. Following her visit in Canada and upon her return to Sri Lanka, she was questioned by the officers and threatened; and
5. The CID officers asked her neighbours about her whereabouts after she had fled Sri Lanka.

[23] However, the Applicant submits the RAD's negative credibility concerns arose from only one fundamental issue, i.e., whether her husband was missing. She argues that while both the RPD and RAD had concerns about the credibility of the allegation relating to her husband's disappearance, neither panel made negative findings about the remaining core allegations raised.

[24] Thus, she adds that the RAD's conclusion that all of the central allegations in her claim are false is a significant leap in reasoning (citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 104 [*Vavilov*]). She stresses that the RAD's finding on one aspect of her claim should not negate the other aspects of her claim where there is corroborating evidence (citing *Mahathmasseelan v Canada (Minister of Employment & Immigration)*, 1991 CanLII 14460 (FCA) [*MM*]).

[25] With respect to her explanation as to the documents submitted in support of her TRV applications, the Applicant argues that it was unreasonable for the RAD to draw a negative inference on the basis that the false information in her TRV applications "remained unreasonably explained" when the RAD had accepted that she did not know what was submitted in those applications.

[26] Second, the Applicant submits that the RAD erred in failing to adequately assess her corroborating evidence – i.e., the letters from her daughter and her neighbour – against its credibility concerns, and in failing to provide justification for its dismissal of the evidence. More specifically, she argues that while the RAD acknowledged that the RPD overlooked the letter from her daughter and neighbour, it did not conduct any assessment of the letters before coming to its conclusion that the absence of an explanation from her son outweighed the positive weight assigned to the corroborating letters.

[27] She adds that while there was a discrepancy in the date her husband went missing (her son's refugee decision stated he went missing in 2016, while she stated he went missing in 2012), her son's refugee decision did nonetheless confirm that her husband had disappeared and had not been seen since. According to the Applicant, regardless of whether it was 2012 or 2016, the son's refugee decision was another document that corroborated her allegation that her husband was missing well before she made a refugee claim in Canada.

[28] Third, as to her residual profile, the Applicant submits that the RAD erred in coming to the conclusions that she did not fit the risk profile for failed asylum seekers returning to Sri Lanka because she was not a male and her allegations of past government suspicion of her and her family were found to be false. The Applicant asserts that (1) while the RAD drew several negative credibility inferences about her husband's disappearance, it did not find all the allegations of past government suspicion of her and her family to be false; and (2) even if the RAD did not believe her husband had in fact disappeared years ago, she was still an older Tamil woman with a son who is a recognized refugee in Canada, and who was detained and tortured by the Sri Lankan authorities

on several occasions due to his suspected support of the LTTE. The Applicant stresses that both the RPD and the RAD failed to assess her risk on this profile.

[29] Lastly, the Applicant submits that the RAD erred in finding that the similarity in the signatures in her husband's passport and the allegedly forged support letter meant that he was alive and available at the time of her TRV application and in turn was not missing. She adds that the RAD did not provide any expert evidence to support this conclusion, nor does it have any underlying expertise to determine the plausibility of the similarities in the signature. According to her, the RAD did not address her argument that the signature could have been either copied and pasted, or otherwise faked.

B. *The Minister's Submissions*

[30] In brief, the Minister argues that the Applicant's submissions amount to an impermissible attempt to have this Court reweigh the Applicant's evidence before the RAD.

[31] First, the Minister responded that the Applicant failed to provide reasonably expected corroborative evidence from her son to explain why the evidence in the TRV applications she says he submitted for her contained evidence she asserts is false and why his evidence in his refugee claim was inconsistent with the TRV applications and the Applicant's testimony. The Minister adds that the requirement for corroborative evidence is only a matter of common sense (citing *Ortiz Juarez v Canada (Citizenship and Immigration)*, 2006 FC 288 at para 7).

[32] The Minister argues that in this case, the RPD questioned the Applicant as to the major inconsistency between her TRV applications and her refugee claim, and the RPD found that her explanation was not acceptable given her failure to provide any corroboration from her son who allegedly prepared her TRV applications with the help of an agent. The Minister notes that the RAD also considered the circumstances and was entitled to draw a negative credibility finding as a result of the Applicant's failure, without reasonable excuse, to provide reasonably expected corroborative evidence from her son.

[33] The Minister stresses that the jurisprudence supports that the RAD is entitled to draw such a negative credibility inference when a potential witness in Canada is not furnished by an applicant without reasonable explanation and in such circumstance, it may be inferred that the individual would have provided evidence unfavorable to an applicant (citing *Obalade v Canada (Citizenship and Immigration)*, 2021 FC 1030 at para 20 [*Obalabe*]; *Obinna v Canada (Citizenship and Immigration)*, 2018 FC 1152 at para 32 [*Obinna*]; *Jele v Canada (Citizenship and Immigration)*, 2017 FC 24 at paras 35-39 [*Jele*]). The Minister notes that this is further supported when examining the record before the RAD, which shows that the son was involved with his mother's refugee claim, including providing a permission for a member to access and disclose his refugee file and him having also provided an affidavit to support the Applicant's request for an extension of time before the RAD.

[34] Second, with respect to the negative credibility findings which outweighed the Applicant's two support letters, the Minister distinguishes the case *MM* referred to by the Applicant. He argues that contrary to *MM*, where the board reached an unreasonable conclusion based on inconsistencies

on matters that were not central to the applicant's claim and there was no generalized credibility finding made by the board against the applicant, the Applicant's core allegations were found to be false by the RAD given the Applicant's lack of credibility.

[35] The Minister adds that the Applicant's argument suggesting that it was unreasonable for the RAD to have not provided a detailed assessment of the credibility and probative value of the two unsworn support letters she provided, amounts to an impermissible request to reweigh evidence. According to the Minister, given the clear evidentiary basis in this matter for the RAD's credibility concerns with the Applicant and her claim, it was both coherent and rational for the RAD to find two unsworn letters, neither of which directly addressing the fact that there was inconsistent evidence in the TRV application, were insufficient to establish the credibility of the central elements of the Applicant's claim.

[36] Further, the Minister notes that as the Applicant's daughter came to Canada in 2011 according to the Applicant's BOC and there is nothing in her letter to suggest she was present in Sri Lanka for the events she outlines in the letter, her statements appear to be a repetition of what others may have told her, not independent evidence. Only the unsworn letter from an alleged neighbour is said to have been based on alleged direct involvement. Thus, according to the Minister, it was reasonable for the RAD to find that the two unsworn letters were insufficient to overcome its credibility concerns. The Court notes that this argument does not transpire from the Decision and does not seem to have been raised before the RAD.

[37] The Minister also responds to the Applicant's contention that in addition to the two unsworn letters, her son's positive refugee determination in 2018 was a document that corroborates her assertion that her husband disappeared, and needed to be addressed in greater detail. The Minister submits that there was nothing before the RAD to suggest the RPD, when it considered the son's claim in 2018, would have known that his mother would later claim that his father actually disappeared four years earlier in 2012, nor would the RPD in 2018 have known the son would provide a declaration the year following his claim being granted, that his father would be staying in Sri Lanka to care for the family farm while his mother visits him. Here again, this argument by the Minister does not transpire from the Decision and does not appear to have been raised before the RAD.

[38] This Court has previously held that a respondent cannot supplement a decision-maker's reasons in their arguments on judicial review (*Kim v Canada (Citizenship and Immigration)*, 2020 FC 581 at para 62, citing *Aria v Canada (Citizenship and Immigration)*, 2013 FC 324 (CanLII), at para 24; *Xiao v Canada (Minister of Citizenship and Immigration)*, 2009 FC 195 (CanLII) at para 35). Therefore, the Court will disregard these two last arguments.

[39] In any case, the Minister stresses that each refugee claim is considered on its own merits based on the information before the tribunal; another determination, even in the case of a family member, is not binding (citing *Azvar v Canada (Citizenship and Immigration)*, 2024 FC 1879 at para 8).

[40] Third, with respect to the Applicant's residual profile, the Minister argues that, contrary to the Applicant's assertion, the RAD did expressly find that her claim — that the government had previously suspected her and her family — was not credibly established. Given that the Applicant had not credibly established that she would be returning without a male protector, nor that her family had been of interest to Sri Lankan authorities, the RAD reasonably considered her risk as a failed asylum seeker.

[41] Lastly, in specific response to the Applicant's argument that the RAD did not have the expertise to undertake an assessment of the signatures, the Minister asserts that she never made this argument on appeal to the RAD and ought not be permitted to raise it presently; and the RAD was entitled as an expert panel to rely on what was visibly logical to it on the facts and evidence that had been before it and to weigh competing evidence.

VI. Analysis

A. *Statement of Law*

[42] It is trite law that refugee claimants bear the burden of proving their claim. As noted by Justice LeBlanc (as he was then), claimants “must put their ‘best foot forward’ in applications before the RPD and present all the evidence that is available at the time” (*Marin v Canada (Citizenship and Immigration)*, 2016 FC 847 at para 27; see also *Teclebrhan v Canada (Citizenship and Immigration)*, 2025 FC 228 at para 29). This is in conformity with the UNHCR Handbook and guidelines on procedures and criteria for determining refugee status [Handbook], which provides insightful guidelines on the determination of refugee claims. According to paragraphs

195 and 196 of the Handbook, the burden of proof of establishing a refugee claim lies with the Applicant (*Avila Magana v Canada (Citizenship and Immigration)*, 2021 FC 427 at para 12).

[43] As for credibility, this is a person's believability or trustworthiness. Credibility assessments are central to every refugee claim (*Talukder v Canada (Citizenship and Immigration)*, 2007 FC 668 at para 20).

[44] In *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 [*Lawani*], Justice Gascon provides a comprehensive summary of the principles governing how an administrative tribunal properly assesses credibility (at paras 21-25). These include:

1. Refugee applicants are presumed to be telling the truth. This is a rebuttable presumption.
2. Accumulated contradictions, inconsistencies and omissions on key elements of a refugee claim can lead to a negative credibility finding. The RPD is best positioned to assess this because it has the benefit of seeing the claimant testify.
3. Negative credibility findings should not be based on minor contradictions or a "microscopic" examination of issues irrelevant to the case or peripheral to the claim.
4. Negative credibility findings on central elements of a refugee claim can extend to other elements of the claim and impact the credibility or weight of documentary evidence.

5. Credibility should not be made strictly on the absence of corroborative evidence, but negative inferences can be drawn if claimants could be reasonably expected to provide such evidence and cannot reasonably explain their absence.
6. The RPD is entitled to draw conclusions based on implausibilities, common sense and rationality, but they must be rational, culturally sensitive, and clearly expressed.

[45] In *Maldonado v Minister of Employment and Immigration*, 1979 CanLII 4098 (FCA) [*Maldonado*], the Federal Court of Appeal established that “[w]hen an applicant swears to the truth of certain allegations, this creates a presumption that those allegations are true unless there be reason to doubt their truthfulness.” (at 305)

[46] As outlined in *Fatoye v Canada (Citizenship and Immigration)*, 2020 FC 456, per Justice Gascon:

[36] The underlying reason for the presumption of truthfulness set out in *Maldonado* is that it cannot reasonably be expected that claimants who have experienced certain types of emergencies will always have documents or other material available to them or other evidence to support their claims. These circumstances may include, but are not limited to, refugee camps, situations in war-torn countries, cases of discrimination and situations in which refugee claimants have only a very short time to escape their persecutors and cannot, subsequently, access documents or other evidence from Canada.

[47] This presumption “is not absolute; rather, it may be rebutted if there is a ‘valid reason’ to doubt the claimant’s truthfulness” (*Gao v Canada (Citizenship and Immigration)*, 2021 FC 271 at para 21, citing *Braveus v Canada (Citizenship and Immigration)*, 2020 FC 1153 at paras 10-12).

Further, “a presumption of truth or reliability cannot be equated with a presumption of sufficiency” (*Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 42).

[48] As touched on in *Lawani* at paragraph 25, the potential necessity of objective evidence is contextually-specific. The principles surrounding corroborative evidence are further summarized by Justice Grammond in *Senadheerage v Canada (Citizenship and Immigration)*, 2020 FC 968:

[36] ... [A] decision maker can only require corroborative evidence if:

1. The decision maker clearly sets out an independent reason for requiring corroboration, such as doubts regarding the applicant’s credibility, implausibility of the applicant’s testimony or the fact that a large portion of the claim is based on hearsay;
2. The evidence could reasonably be expected to be available and, after being given an opportunity to do so, the applicant failed to provide a reasonable explanation for not obtaining it.

[49] Inconsistencies and omissions must be real (*Rajaratnam v Canada (Minister of Employment and Immigration)*, 1991 CarswellNat 851 at 16-17), and not exaggerated or peripheral to the claim (*Sheikh v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 15200 (FC) at para 24; see also *Manan v Canada (Citizenship and Immigration)*, 2020 FC 150 at para 44; *Vitalis v Canada (Citizenship and Immigration)*, 2014 FC 723 at para 9).

[50] Lastly, in the present matter, the RAD made a global negative credibility finding in its Decision. Such a finding occurs where credibility findings on a certain topic taint the applicant’s overall credibility. It must be clearly explained and meet the hallmarks of justification,

transparency, and intelligibility (*Rasiah v Canada (Citizenship and Immigration)*, 2019 FC 408 at para 27).

[51] Moreover, a global negative credibility finding cannot be made until all evidence central to the claim is considered (*Marku v Canada (Citizenship and Immigration)*, 2021 FC 1096 at paras 22-25 citing *Iqbal v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1219; *Ruiz v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1339).

B. *Standard of Review*

[52] Both parties submit that the applicable standard of review is reasonableness. The Court agrees. Credibility determinations go to the merits of a decision (see e.g. *Abdulrazekh v Canada (Citizenship and Immigration)*, 2024 FC 898 at para 14), making reasonableness the presumptive standard of review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 16 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [*Mason*]).

[53] 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).

[54] Further, the Court must be aware of the particularities when credibility findings are at play.

As summarized by Justice Rochester (as she was then) in *Behleem v Canada (Citizenship and Immigration)*, 2023 FC 917:

[19] Credibility determinations are part of the fact-finding process, and are afforded significant deference upon review (*Fageir v Canada (Citizenship and Immigration)*, 2021 FC 966 at para 29 [*Fageir*]; *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 at para 35 [*Tran*]; *Azenabor v Canada (Citizenship and Immigration)*, 2020 FC 1160 at para 6). Such determinations by the RPD and the RAD demand a high level of judicial deference and

should only be overturned “in the clearest of cases” (*Liang v Canada (Citizenship and Immigration)*, 2020 FC 720 at para 12).

(see also *Lawani* at para 15; *Lawal v Canada (Citizenship and Immigration)*, 2010 FC 558 at para 11)

[55] Moreover, the Court has previously stressed that “[c]redibility findings go to the very core of the RPD’s expertise and have indeed been described as the “heartland” of the RPD’s jurisdiction” (*Lawani* at para 15 citing *Siad v Canada (Secretary of State)*, 1996 CanLII 4099 (FCA), [1997] 1 FC 608 (FCA) at para 24; *Gomez Florez v Canada (Citizenship and Immigration)*, 2016 FC 659 at para 19; *Soorasingam v Canada (Citizenship and Immigration)*, 2016 FC 691 at para 16; *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 at paras 7-8).

C. *The Decision is Reasonable*

[56] The Court agrees with the Minister’s submissions that the Applicant is effectively asking the Court to reassess the evidence, which is not the Court’s role on a reasonableness judicial review (*Sharma v Canada (Attorney General)*, 2018 FCA 48 at para 13).

[57] The Decision at paragraph 9 provides a good summary of their findings in this case:

[9] The RAD rejects these arguments and finds that the RPD did not err in drawing this negative credibility inference. The RAD notes that, according to the central allegations, the appellant did not have a subjective fear of government persecution in Sri Lanka when her son submitted the TRV application for her. Therefore, while the RAD accepts that the RPD overlooked the corroborating letters from the appellant’s daughter and the neighbour and that the RPD should

not have expected the appellant herself to know what was in her TRV application for the reasons that she argues, the RAD agrees with the RPD that, considering that the RPD gave her an opportunity, the appellant should have produced evidence from her son to explain why he put allegedly false information in her TRV application and why he told the RPD in his claim that his father disappeared four years later than when the appellant testified in her claim that he did. In the RAD's view, the contradictions between the central allegations in her claim, the central allegations in her son's claim, and the contents of her TRV application remain unreasonably explained without any explanatory evidence from her son to reasonably explain them away. In its independent assessment of the credibility of the central allegations in the appellant's claim, the RAD therefore draws a substantial negative credibility inference for this reason. The RAD also finds this negative credibility inference to be heavy enough to outweigh the combined positive weight that the RAD assigns to the corroborating letters from the appellant's daughter and the neighbour that the RPD overlooked in the RAD's overall final credibility assessment balance.

[58] In *Nsabimana v Canada (Citizenship and Immigration)*, 2007 FC 645 at paragraph 8, the Court found that the Court did not err in considering contradictions between the student visa and the refugee claim as the decision maker had reviewed the information in the visa application in the context of the entire story being put forward by the applicant. Further, in *Fabunmi v Canada (Citizenship and Immigration)*, 2020 FC 1009 at paragraph 17, the Court held that the RAD reasonably considered the inconsistent information between the visa applications and the refugee claims as the finding of inconsistency was uncontradicted and there was no explanation as to why the information was incorrect.

[59] Thus, this Court is of the view that it was not unreasonable for the RAD to draw negative credibility inferences, given that:

1. The Applicant's central allegations, i.e., that she feared the Sri Lankan army based on events involving her son and her husband, were inconsistent with her previous TRV applications, including that she had a quiet life in Sri Lanka at the time the TRV applications were made, and her explanations during her hearing before the RPD were not convincing.
2. Although the RPD clearly stated the importance of the son's evidence, the Applicant did not submit any corroborating evidence from her son who allegedly prepared her TRV applications. Given that her son confirmed in an affidavit that he was involved in her refugee claim as he retained his mother's counsel and filed an affidavit in support of the application for an extension of time, it was reasonable to expect him to file corroborating evidence explaining how his father's signature was found on a letter dated in 2019 when he supposedly had been missing for years. The son also could have possibly explained the discrepancies regarding when his father supposedly disappeared.

[60] Further, although the Applicant submits the RAD erred in its assessment of her husband's signature, the Court finds that it was reasonable for the RAD to draw a negative credibility assessment from this evidence. The Applicant's husband's signature on the February 22, 2019, support letter was either true, which meant that he was alive and present in 2019, contrary to the Applicant's claim that he disappeared in 2012, or false, meaning the Applicant (or someone else on her behalf) submitted a false document to support her TRV applications, thereby misleading the Canadian immigration authorities. In either case, there is no reasonable explanation submitted

by the Applicant on this key issue, and the RAD's negative credibility inference from this document is thus reasonable.

[61] The Court notes that although the Applicant's son provided his affidavit in the context of the request for extension of time to perfect the Applicant's appeal to the RAD, this affidavit (1)°does not confirm that he assisted the Applicant with her TRV applications; (2)°does not explain how he would have obtained his father's signature on a letter in 2019 to support the Applicant's TRV applications, when his father had supposedly gone missing years before; nor give any indication that the signature was fake; and (3) does not explain the discrepancies as to when his father would have gone missing.

[62] Moreover, the Court agrees with the Minister's submission that the RAD was entitled to draw a negative credibility inference as the Applicant's son, a potential witness in Canada who had been allegedly involved in his mother's TRV applications and clearly involved in the context of his mother's appeal to the RAD, did not furnish evidence without reasonable explanation from the Applicant. In these circumstances, it could be reasonably inferred that the Applicant's son would have provided evidence unfavorable to the Applicant (*Obalade* at para 20; *Obinna* at para 32; *Jele* at paras 35-39)

[63] Lastly, the Court disagrees with the Applicant's assertion that both the RPD and the RAD failed to reasonably assess her residual profile as an older Tamil woman with a son who is a recognized refugee in Canada and who was detained and tortured by the Sri Lankan authorities due to his suspected support of the LTTE. At paragraph 16 of the Decision, the RAD stated that it

reviewed the country documentary evidence and that some failed asylum seekers did face a serious possibility of government persecution upon return in Sri Lanka. However, the RAD found that the Applicant did not fit that residual risk profile specifically because she was an elderly Tamil female whose allegations of past government suspicion of her and her family were found, on a balance of probabilities, to be all false. The RAD therefore clearly assessed her residual profile and the RAD's conclusions are not unreasonable.

[64] Thus, given the high deference owed to RAD's credibility findings, the Court should not and will not intervene.

VII. Conclusion

[65] For the above reasons, the Decision is not unreasonable and the application for judicial review will be dismissed.

JUDGMENT in IMM-6160-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general important is certified.

"Danielle Ferron"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6160-24

STYLE OF CAUSE: MANNIMEHALAI DAYANIDIY v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: MAY 6, 2025

**REASONS FOR JUDGMENT
AND JUDGMENT:** FERRON J.

DATED: JUNE 5, 2025

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