

Federal Court



Cour fédérale

Date: 20250609

Docket: IMM-18298-24

Citation: 2025 FC 1035

Ottawa, Ontario, June 9, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

**TAJUDEEN MOHAMMED OLADOTUN
AND YUSRAH AJOKI OLADOTUN**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants seek judicial review of a decision made by the Refugee Appeal Division [RAD] dated September 4, 2024 [the Decision], which dismissed their appeal of the prior decision by the Refugee Protection Division [RPD]. The RAD's dismissal of their appeal confirmed the RPD finding that the Applicants are neither Convention refugees nor persons in need of protection pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee*

Protection Act, SC 2001, c 27 [IRPA]. The determinative issue for the RAD and for the RPD before it was credibility.

[2] I conclude that the RAD decision is unreasonable for the reasons that follow. This application for judicial review is therefore granted.

I. **Factual Background**

[3] Tajudeen Mohammed Oladotun [the Principal Applicant] is a 55-year-old Nigerian citizen. His daughter, Yusrah Ajoke Oladotun [the Associate Applicant], is 20 years old and also Nigerian citizen.

[4] In July 2013, the Principal Applicant was appointed the head of security in the Onyabo Security Group [the OSG] in Ijede, Ikorodu, Lagos State, and its surrounding areas. His appointment was made by a group of landlords/homeowners who were part of the New Generation Community Development Association [the ND Association]. OSG members were tasked with watching over and protecting everybody in their neighbourhood from violent cults operating in the area. Their activities included providing information to the ND Association and making reports to the police of cult group activities, as well as assisting the police in apprehending cult members who were committing murders, kidnappings and other crimes in their community. The assistance the OSG provided to the police included conducting investigations, conducting operations in cult strongholds, and participating in cult member arrests.

[5] As will be discussed in greater detail below, there were various cult groups operating in and around Ikorodu at the time and they included cult groups known as the Ogboni, the Aiye and the Badoo (also spelled “Baddoo”).

[6] The Principal Applicant alleges that he and his family have been targeted by various cult groups after reporting information about them to local police in and after July 2013 in his capacity as the head of the OSG.

[7] On August 20, 2013, the Principal Applicant’s ex-wife and the Associate Applicant were attacked by the cultists. The Principal Applicant’s stepson’s father’s house was burned down, apparently in the cult members’ efforts to locate the Principal Applicant. The Principal Applicant reported these events to police but no action was taken against the cultists. The Principal Applicant was concerned that his daughter and ex-wife had been murdered but they were “rescued” as of August 26, 2013, finding safety with the Principal Applicant’s brother who was confronted and injured by the cultists.

[8] The Principal Applicant alleges that he moved to northern Nigeria on October 25, 2013, to reside with a cousin and began receiving threatening messages approximately two months later. He moved, residing with a friend named in eastern Nigeria in December 2013. The Principal Applicant’s friend informed him on January 8, 2014, that he was receiving daily threats and calls from unknown persons. In January 2014, the Principal Applicant returned to his mother’s home but was advised by community leaders there to return to his home and seek police assistance.

[9] The Principal Applicant left Nigeria on April 3, 2015, and relocated to Atlanta, Georgia, USA, where he applied for a visa. His stepson and the Associate Applicant left Nigeria and landed in Atlanta in October 2016. The Principal Applicant married an American citizen in July 2017, who attempted to sponsor him for a green card. The attempt was unsuccessful, which the Applicant attributes to his wife's undisclosed criminal record.

[10] The Principal Applicant alleges that his younger brother informed him that cultists attacked his older brother on March 26, 2018, and that he died the next day. He also alleges that another older brother was attacked on June 8, 2019, and died on that day. He also alleges that his mother died in 2023 of a heart attack as a result of his flight and his brothers' deaths.

[11] The Principal Applicant remained in Georgia until he was asked to leave the United States. The Applicants entered Canada from the United States of America via Roxham Road on August 29, 2022.

[12] The Applicants submitted their refugee claims on December 1, 2022. In their original basis of claim documents, the Applicants alleged that their agents of harm were the Ogboni and the Baddoo cult groups. Shortly before their hearing before the RPD, the Applicants updated the narrative portion of their basis of claim and changed the name of one of their agents of harm from the "Ogboni" cult group to the "Aiye" cult group, but maintained throughout that their agents of harm also included the Baddoo cult group.

II. **Decision Under Review**

A. ***RPD Decision***

[13] The RPD heard the Applicants on November 8, 2023, and April 18, 2024. The RPD rejected the Applicants' claim through reasons dated June 26, 2024, on the basis that the Principal Applicant was not credible.

[14] The RPD found material aspects of the Principal Applicant's testimony with respect to his role as the leader of the OSG as vague and lacking detail. It came to this conclusion despite taking into account the psychological barriers facing the Principal Applicant following his being found as suffering from post-traumatic stress disorder.

[15] The RPD also found that some of the supporting documents filed were not consistent with the Principal Applicant's testimony as it pertained to his participation in arrests of cult members. The documents at issue had been obtained for the Principal Applicant by family members living in Nigeria largely independently from the Principal Applicant.

[16] The RPD noted several unexplained, material inconsistencies between the Principal Applicant's testimony and a police letter dated August 2, 2023. The RPD noted that the police letter indicated that the Principal Applicant had served as leader of the OSG for one year and conducted 30 operations in cult strongholds that resulted in over 100 arrests of cult members, while the Principal Applicant had testified that he had served in the role for three years and that the OSG had caught about three people that had been sent to prison while he testified to being involved in three arrests. The RPD considered that these inconsistencies were material as they

related to the length and nature of the Principal Applicant's service as leader of the OSG and the RPD drew a negative credibility inference.

[17] As the Principal Applicant was also unable to explain how the police letter was obtained, the RPD drew another negative credibility inference and afforded the August 2, 2023, police letter no weight.

[18] The RPD was also concerned by the inconsistencies between the Applicants' original basis of claim and their amended narrative with respect to the identification of the Applicants' agents of harm. The RPD found that the Applicants were unable to correctly identify their agents of harm because they had identified the Ogboni cult group as an agent of harm and latter identified the Aiye group instead. The RPD found the Applicants' explanations that they were not certain of the identity of the agents of harm at the time of their original basis of claim narrative as "confusing and contradictory" particularly in light of the Principal Applicant's alleged experience arresting cult members. The RPD drew a negative credibility inference and found that the Applicants had not established the identity of their agents of persecution. The RPD makes no mention of the Applicants' consistent identification of the Baddoo cult group as one of their agents of ham, preferring to focus exclusively on the Ogboni – Aiye modification in the basis of claim narrative.

[19] The RPD noted several other inconsistencies as between the Applicants' testimony and the supporting documentation produced. The RPD was particularly concerned with August 2023 support letters obtained by the Principal Applicant's cousin from the OSG and from the ND

Association. The RPD found that lack of details and inconsistencies between the OSG support letter, the October 2023 police letter, and the Principal Applicant's testimony, particularly to as to the dates of his involvement with the OSG. The RPD summarized that the timeline of the Principal Applicant's involvement with and leadership of the OSG varied in the three sources and was inconsistent (2012 to 2015 as reported by the OSG which is consistent with the Principal Applicant's evidence that he was a member of the OSG and its leader for about three years, but was named its leader in 2013, while the police letter reflects that he was the leader only for one year, between 2013 and 2014), and that it had concerns over how the letters of support were obtained for the Principal Applicant apparently without his involvement. The RPD attached no weight to the letter of support from the OSG and found that it did not support the Principal Applicant's role or involvement in the OSG.

[20] Considering its credibility findings, the RPD dismissed the Applicants' claims pursuant to sections 96 and 97 of the IRPA.

B. *RAD Decision*

[21] The Applicants appealed the RPD decision on July 2, 2024. The Applicants argued that the RPD had made 14 different errors in its decision. They sought to adduce new documentary evidence and requested an oral hearing. The new documentary evidence was not admitted, and the request for an oral hearing was denied.

[22] The RAD focused on two credibility findings by the RPD and found that they were determinative: i) that the Applicants were not credible as to the identity of their agents of harm,

and, ii) that the Principal Applicants' testimony about his involvement with the OSG was inconsistent with the October 2023 police letter.

[23] The RAD found that the RPD had breached the Applicants' rights of procedural fairness by not providing them with the opportunity to address an incomplete lawyer's letter as evidence before it. The RAD determined that the breach was nevertheless a minor issue that was not determinative of the overall credibility of either Applicant's claims and drew no negative inference from the incomplete letter.

[24] The RAD found that the Applicants did not provide a reasonable explanation for the inconsistency in the identification of the alleged agents of harm between the original and amended basis of claim documents. The RAD agreed with the RPD that the Principal Applicant's explanation that he did not know the name of one of the cults intent to harm him as between the Ogboni and the Aiye, or that he believed that some of the cults were Ogboni rather than Aiye, was not credible in light of his central allegation that he was appointed head of the OSG and had experience identifying cultists who posed a threat to his community.

[25] The RAD specifically found that the Applicants' consistent identification of the Baddoo as an agent of harm did not address the inconsistency in naming the other agent of harm cult group and agreed with the RPD that the Principal Applicant was not credible in his identification of his agents of harm.

[26] The RAD also agreed with the RPD that the October 2023 police letter was inconsistent with the Principal Applicant's testimony with regard to the nature of his work in the OSG. The RAD concluded that there is no merit to the Applicant's argument that the RPD misunderstood the October 2023 police letter and erroneously held it to signify that the Principal Applicant was personally involved in the arrest of over 100 cult members. The RAD cited the report, which indicated that the Principal Applicant "successfully conducted operations in 30 [cult] strongholds... resulting in the arrests of over 100 cult members..." and contrasted the information it conveyed with the Principal Applicant's testimony that he was involved in three arrests. Considering this inconsistency, the RAD agreed that the October 2023 police letter can be given no weight and drew a negative credibility inference.

[27] The RAD upheld the RPD's assessment of the Applicants' testimony and documentary evidence as correct, but found that the Applicants' lack of credibility with respect to the identity of the agents of harm and the Principal Applicant's alleged involvement as head of the OSG was determinative of the appeal because they concern the essential elements of his claim and rebut the Applicants' presumption of truthfulness.

[28] The RAD therefore found that the Applicants failed to establish their allegations on a balance of probabilities and rejected their claim sections 96 and 97(1) of the IRPA.

[29] The Applicants filed an application for leave and judicial review of the Decision on September 25, 2024.

III. **Issues**

[30] The only issue on this application is whether the RAD's decision was reasonable.

[31] The Applicants have also raised the issue of RPD's breach of procedural fairness as argued before the RAD with respect to the incomplete lawyer's letter. The RAD cured the RPD's breach of procedural fairness in this regard and remedied the breach by specifically drawing no negative inference from the lawyer's letter. As the procedural fairness issue was cured by the RAD, there is no need for the Court to consider it here.

A. ***Standard of Review***

[32] The parties agree that the applicant standard of review is the reasonableness standard described in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 ("Vavilov"). I agree.

[33] On a reasonableness review, the reviewing court asks whether the decision under review bears the hallmarks of reasonableness, that is, whether it is justified, transparent and intelligible in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov* at para 99).

[34] As summarized by Mister Justice Gascon in *Singh v. Canada (Citizenship and Immigration)*, 2024 FC 202, at paras 15 and 16:

[15] 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 its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[16] Such a review must include a rigorous and robust 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).

[35] The challenging party bears the burden of establishing that the decision under review is unreasonable because there are “sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency.” The court must be satisfied that any shortcomings or flaws relied on by the party challenging the decision are more than merely superficial or peripheral to the merits. They must be sufficiently central or significant to render the decision unreasonable (*Vavilov* at paras 100 and 101). A reasonableness review is not a “line-by-line treasure hunt for error” (*Vavilov* at para 102). Rather, where “there is [a] line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived,” the reviewing court will not intervene (*Vavilov* at para 102).

[36] A reasonable decision is one that is justified in light of the facts and the applicable law. The decision maker 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 fundamentally misapprehended or failed to account for the evidence before it. Conclusions that are not based on the evidence that was actually before the decision maker are unreasonable (*Vavilov*, at para 126).

IV. **The Parties' Arguments**

A. ***The Applicants' Arguments***

[37] Considering the Court's conclusions below, only two of the Applicants' many arguments need to be discussed.

[38] The Applicants argue that they identified their agents of harm sufficiently despite having modified the narrative of their basis of claim by changing the name of one of the two cult groups that were their agents of harm from the Ogboni to the Aiye while maintaining throughout that the other agent of harm was the Baddoo cult group. They argue the RAD erred was not responsive to their continued allegation that one of their agents of harm was the Baddoo cult group and unreasonably found that the Applicants could not identify their agents of persecution.

[39] The Applicants also argue that the RAD was unreasonable when it held that the Principal Applicant's involvement with the OSG was not credible based on the number of arrests he had participated in. The Applicants argue that the RAD failed to engage with the evidence led on the distinction between the Principal Applicant's personal involvement in three arrests and the

OSG's involvement with the police service in the arrest of over 100 cult members. This failure to engage, they argue, makes the RAD decision unreasonable.

B. *The Respondent's Arguments*

[40] Considering the Court's conclusions below, only the Respondent's argument on the Applicants' identification of their agents of harm and the rejection of the Principal Applicant's involvement in arrests need be discussed.

[41] The Respondent argues that the RAD reasonably concluded that the Applicants were not credible as to the identity of the agents of harm because of their failure to provide a reasonable explanation for the inconsistency between the original basis of claim and the amended basis of claim which identified different agents of harm. The Respondent further argues that before the RPD, the Principal Applicant testified that he had been informed by the police in 2013 that his persecutors were from the Aiye cult group. When asked why he would omit the Aiye from his original narrative, the Applicant's response was that he did not know, and that it was a mistake. The Respondent argues that the RAD reasonably agreed with the RPD's conclusion that the Applicant's testimony regarding this inconsistency is not credible. As the Applicants failed to provide any explanation as to the inconsistency in identifying the agents of harm, the RAD reasonably concluded that the Applicants were not credible as to their identity.

[42] The Respondent argues that the RAD reasonably rejected the Applicants' argument that there is a difference between being personally involved in three arrests and the police/security group conducting all the arrests because the police report stated that the Principal Applicant was

tasked with eradicating cult activities which resulted in the arrest of over 100 cult members and the Principal Applicant's testimony of involvement in three arrests was inconsistent with the police report filed.

V. **Analysis**

A. ***The Identification of the Agents of Harm***

[43] The RAD held that the Applicants were not credible as to the identity of the agents of harm. The evidence in the record before the RAD and the RPD was clear that the Applicants were consistent throughout that they feared two agents of harm: the Ogboni or the Aiye cult, and the Baddoo cult. The RAD and the RPD before it only dealt with the issue of one of the agents of harm being the Ogboni as originally claimed in the basis of claim documents or the Aiye as identified in the amended basis of claim narrative. The RAD did not address whether the Baddoo had been properly identified as an agent of harm and did not identify any basis upon which the Baddoo was improperly identified as an agent of harm by the Applicants.

[44] The RAD found that the Applicants were not credible in the identification of the Aiye cult because of the amendment in the Claim narrative shortly before the hearing before the RPD and its similarity with the content of a police letter that was filed. There had not been any amendment of the Applicants' basis of claim with respect to the Baddoo and the Applicants had been consistent throughout in their identification of the Baddoo cult as one of their agents of harm. The documentary evidence filed, including the original and the modified basis of claim, was similarly consistent in identifying the Baddoo cult as one of the Applicants' agents of harm.

The Applicants' testimony before the RPD was also consistent in identifying the Baddoo cult as one of their agents of harm.

[45] The RAD does not mention the evidence filed with respect to the Applicants' identification of the Baddoo cult as one of their agents of harm, yet nevertheless determined that the Applicants had failed in identifying the Baddoo as their agent of harm because they modified their basis of claim as it pertained to their other agent of harm. In doing so the RAD failed to account for the evidence before it with respect to the Baddoo as an identified agent of harm. This failure to take into account the evidence before it and to consider it leads to the conclusion that the RAD decision to reject the Applicants' claim as it pertains to the Baddoo as an agent of harm is not reasonable because it is not justified by the facts (*Vavilov*, at para 126).

B. *The Principal Applicant's Involvement in Cult Member Arrests*

[46] The RAD's second determinative finding was that the Principal Applicant was not credible, as had been found by the RPD, because his testimony before the RPD had been that he had been involved "in three arrests" while the August 2, 2023, police report accepted in evidence as Exhibit 7 stated that police and OSG had been involved in over 100 arrests. The RAD held that this discrepancy was a material inconsistency which allowed it to give the police report no weight in establishing that the Principal Applicant was involved in the OSG or in activities against the cults as he alleges. This led to the RAD's conclusion that the Principal Applicant lacked credibility in his alleged involvement in bringing cults to justice. This conclusion was in part determinative of the Applicants' appeal from the RPD decision.

[47] The Principal Applicant's testimony before the RPD, with my emphasis on certain portions, was as follows:

PRINCIPAL CLAIMANT: Yes. Yes, and the people that comes to the neighbourhood because they know I am the one (1) that helps them to run around and give information.

MEMBER: How many people did you help catch?

PRINCIPAL CLAIMANT: **We have gotten about three (3) people that had gone to prison**, and it is from the people that **we** caught that ---

MEMBER: Who are these people?

PRINCIPAL CLAIMANT: So, they are Eiye and the Badoo, and it is those people **that we caught** -- **that I helped them to catch that are in prison** that gave them the information that this is the person that helped them catch them, and that is why they are after my life and the life of my family.

MEMBER: Okay. Let us take a break. It is 2:43. Can we come back at 3 p.m.? Turn off the camera and microphone, but do not hit the red leave button on the microphone. I will see you in a little bit. Thanks.

-----PAUSE (01:18:15 to 01:36:41)-----

MEMBER: Counsel?

-----PAUSE (01:36:43 to 01:38:14)-----

MEMBER: Okay. Welcome back.

Okay. Tajudeen, you testified that **you helped arrest three (3) different cultists**. Do you know what cults they were from?

PRINCIPAL CLAIMANT: **They are from Badoo and from Eiye.**

MEMBER: How do you know that?

PRINCIPAL CLAIMANT: (inaudible) a lot of -- the police and made us know.

MEMBER: Did you help make any other arrests?

PRINCIPAL CLAIMANT: Yes, **there were lots of them that was arrested at that time.**

MEMBER: Do you know any of their names?

PRINCIPAL CLAIMANT: I do not know their names.

[48] The Principal Applicant's testimony was not that he had been involved in "three arrests". His testimony was that he had been involved in "lots of" arrests with others, and that he had helped along with others in catching three persons "that had gone to prison". The RPD member misapprehended the Principal Applicant's testimony by failing to make the distinction: i) between "arrests" and persons "going to prison" as the Principal Applicant had testified; and, ii) between his involvement in arrests as part of a group or otherwise. These misapprehensions were made despite the Principal Applicant's evidence that there were "lots of them arrested" a few questions later in his testimony, and that he did not testify as to being involved in only three arrests.

[49] The RPD's misapprehension of the evidence was perpetuated at paragraphs 13 and 14 of the RPD decision. The RPD wrote at paragraph 13 of its decision that "When asked for more details on this matter, the PC indicated that they had caught about three people who were then sent to prison". At paragraph 14 of its reasons, the RPD compared the content of the August 2, 2023, police report and its content that the Principal Applicant "successfully conducted operations in 30 [cult] strongholds" resulting in the arrest of "over 100 cult members" and the Principal Applicant's evidence, and concluded that, "This contradicts the PC's testimony indicating that he was involved in three arrests".

[50] There was no contradiction in the Principal Applicant's evidence; there was a factual inaccuracy imbedded in the RPD's post break question to the Principal Applicant at the hearing that was perpetuated in the RPD decision while disregarding the Principal Applicant's actual evidence that there were "lots" of arrests, and that he had been involved in helping catch "three persons going to prison".

[51] The RAD made the same error at paragraph 25 of its decision when it compared the same August 2, 2023, police report and its content that over 100 cult members had been arrested and wrote, "However, the Principal Appellant testified he was involved in three arrests". The RAD misapprehended the Principal Applicant's testimonial evidence in the record and perpetuated the RPD's factual error in the decision under review.

[52] In doing so the RAD failed to account for the evidence before it. That failure to take evidence into account led to the RAD drawing a determinative negative inference of the Principal Applicant's involvement in bringing members of the cults that are his agents of harm to justice and dismissing the Applicants' appeal. The RAD finding on this issue was not justified by the record and is unreasonable (*Vavilov*, at para 126).

VI. **Disposition**

[53] The RAD's conclusions on what it considered as the two determinative issues in the Applicants' appeal from the RPD decision are both unreasonable as they are not based on the evidence in the record. This application for judicial review is therefore granted.

JUDGMENT in IMM-18298-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is granted.
2. The Refugee Appeal Decision made on September 4, 2024, is quashed and set aside.
3. This matter is remitted for redetermination in light of this judgment by a differently constituted panel of the Refugee Appeal Division.
4. The whole, without costs.

“Benoit M. Duchesne”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-18298-24

STYLE OF CAUSE: TAJUDEEN MOHAMMED OLADOTUN et Al. v.
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PLACE OF HEARING: OTTAWA, ONTARIO

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