

Federal Court



Cour fédérale

Date: 20250610

Docket: IMM-2804-24

Citation: 2025 FC 1034

Ottawa, Ontario, June 10, 2025

PRESENT: Madam Justice Pallotta

BETWEEN:

JOSE LUIS TINEO LAURA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] On this application for judicial review, Jose Luis Tineo Laura seeks an order setting aside a decision of the Refugee Appeal Division (RAD) of the Immigration and Refugee Board that determined he is not a Convention refugee or a person in need of protection according to sections 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] Mr. Tineo Laura is a citizen of Peru who sought refugee protection in Canada based on a fear that he will be harmed or killed by perpetrators of a crime in retaliation for reporting them to

the police. Mr. Tineo Laura claims that he was caught up in a robbery at his workplace in July 2018 and he recognized one of the five perpetrators. He alleges that his troubles began after he made a report to the police that identified this perpetrator—he was threatened and attacked in retaliation, hospitalized for his injuries, and suffered further threats and attacks—and he has reason to fear continued retaliatory risk and harm if he is returned to Peru.

[3] The Refugee Protection Division (RPD) found Mr. Tineo Laura to be generally credible about the core allegations of his claim but concluded he is not a person described in *IRPA* sections 96 or 97 because he can avoid harm by relocating to a safe place within Peru.

[4] Mr. Tineo Laura appealed the RPD's decision and sought to introduce additional evidence pursuant to rule 29 of the *Refugee Appeal Division Rules*, SOR/2012-257 (Rule 29 Evidence) regarding recent events contradicting the RPD's finding that he can safely relocate within Peru. A key piece of evidence was a March 2023 court decision that convicted four of the perpetrators, sentenced them to 20 years in prison based on Mr. Tineo Laura's reports to the police, and identified them as members of a transnational criminal gang. Mr. Tineo Laura also tendered an affidavit and letters from his brother, his mother, and her friend about the recent events, stating among other things that some of the attackers were still at large and that his mother was forced into hiding after gang members started targeting her.

[5] The RAD issued a notice instructing Mr. Tineo Laura to provide original copies of the Rule 29 Evidence as well as original copies of certain evidence he had submitted to the RPD—three police reports, two hospital reports, and two notarized statements from neighbours who saw

men on a motorcycle firing shots at Mr. Tineo Laura at his home in 2019. In response to the notice, Mr. Tineo Laura provided physical copies of the documents together with an affidavit explaining that he was never in possession of the originals and could not provide them, as well as letters from his brother, mother, and a court clerk explaining the efforts to obtain original documents and/or why originals could not be provided.

[6] The RAD admitted the Rule 29 Evidence and the evidence responding to the notice requesting original documents.

[7] The RAD had concerns with the authenticity of the evidence, especially after reviewing the physical copies of documents Mr. Tineo Laura filed in response to the notice. The RAD found that the admitted evidence met the requirements of *IRPA* section 110(6) for convoking an oral hearing and issued a hearing notice that identified the following issues: (i) authenticity and credibility of Mr. Tineo Laura's documents, including the Peruvian court decision, police reports, hospital reports, and support letters that he had submitted; and (ii) credibility of the robbery incident and the problems he experienced after making reports to the police. The hearing notice further required Mr. Tineo Laura to provide certified copies of all official documents for which an original was not available, including the court decision, police reports, and hospital reports.

[8] The hearing was held on January 5, 2024 and the RAD issued its decision later that month. The RAD rejected Mr. Tineo Laura's claim for protection, finding that he was not a credible witness and that his allegations were fabricated.

[9] The RAD found there were serious problems with the documents Mr. Tineo Laura presented as new evidence as well as those he presented to the RPD, and his testimony did not resolve the RAD's concerns. The RAD found the court decision, court clerk's letter, three police reports, and both medical reports to be fraudulent, tainting Mr. Tineo Laura's credibility. The RAD also found his evidence about the gang pursuing his mother and the content of letters submitted by others, including his mother and her friend, were not credible. Mr. Tineo Laura's credibility was further undermined by aspects of his testimony about the problems he experienced in Peru.

[10] While many of the credibility issues on appeal arose from the new evidence, the RAD also found that the RPD's credibility determination was incorrect—the RPD had not even tried to look at original copies of the supporting documents and it had overlooked credibility issues that arose during the hearing. The RAD found that Mr. Tineo Laura did not file a report with the police, he was never targeted or hospitalized, the court document had been fabricated in an attempt to connect his story to an established criminal gang, and his core allegations were not credible.

[11] Mr. Tineo Laura alleges that the RAD erred in assessing his documentary evidence and the decision cannot withstand reasonableness review. The errors render the decision untenable in light of the relevant factual and legal constraints that bear on it: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 101.

[12] Mr. Tineo Laura submits the RAD made speculative findings about the documentary evidence that were not grounded in evidence and it failed to exercise the required caution in finding that the documents were fraudulent based on implausibility: *Mohamud v Canada (Citizenship and Immigration)*, 2018 FC 170 at paras 6, 9. Implausibility findings should be made only in the clearest of cases, based on clear evidence and a clear rationalization to support inferences that something never occurs, is clearly unlikely, or is far-fetched: *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 (CanLII); *Al Dya v Canada (Citizenship and Immigration)*, 2020 FC 901 at paras 32, 38.

[13] Furthermore, Mr. Tineo Laura contends the RAD conducted a microscopic examination that focused on minor issues with the documents' appearance or construction. Credibility determinations must be based on real discrepancies and the RAD should not display a zeal to find contradictions or over vigilance in examining evidence microscopically: *Abdinur v Canada (Citizenship and Immigration)*, 2020 FC 880 at para 40; *Sheikh v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 15200 (FC) at paras 23-24. Unless the RAD can articulate its suspicions, the benefit of any unsupported doubt must go to the person giving the evidence: *Vodics v Canada (Minister of Citizenship and Immigration)*, 2005 FC 783 at para 11.

[14] Mr. Tineo Laura submits the RAD's findings about the court documents, police reports, and hospital records were central to the credibility determination, particularly the errors related

to the court documents and police reports which were sufficiently serious on their own to warrant overturning the decision:

- The RAD's concerns with the court decision were that the stamp on the document was blurry and pixelated, an original stamp would not appear this way, and a court decision delivered by mail would not contain an imitation of a security feature like a stamp. Also, the judges' signatures were not original, and Mr. Tineo Laura testified that the judges signed the decision in ink when they had not. Mr. Tineo Laura states the RAD speculated about how the document should appear, relied on a lack of security features without any evidence that specific security features are required, and relied on an outdated decision—*Kamiak v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1655 [*Kamiak*—for the principle that the purpose of a seal is to prove authenticity and it reasonable to expect such a seal would not be inkjet printed. Mr. Tineo Laura states the RAD ignored evidence that the document was a copy, and had no basis for assuming a copy would not look like this. The RAD also failed to properly consider the court clerk's letter, which was corroborative of Mr. Tineo Laura's evidence and explained that procedural law prevents the court from delivering original documents and the copy that was delivered has full legal validity according to Peruvian law. The RAD also erred by drawing a negative inference from Mr. Tineo Laura's failure to produce a certified copy of the court decision without any analysis of the court clerk's letter and the explanation that the copy has full legal validity.

- The RAD's concerns with the police reports were that (i) the body of the report was of high quality while parts of the header were faded, the police logo was blurry, and the signature area had specks and shadows characteristic of a photocopy, and (ii) the print dates preceded Mr. Tineo Laura's departure from Peru when his brother obtained the documents from the police station after that date. The RAD found it unlikely that the police would give the brother paper copies that all had the same distortions, rather than printing copies from the computerized system. As with the court decision, Mr. Tineo Laura contends the RAD's criticisms were not grounded in objective evidence and were instead based on suspicion and an unfounded assumption that he and his family members would have been given better-looking documents. The RAD did not explain how an authentic copy should look, point to evidence of how police stations handle documents, or offer a reasonable explanation for why the documents should have been printed on a later date. The RAD unreasonably faulted Mr. Tineo Laura for his inability to explain why the documents looked the way they did.
- The RAD's concerns with the hospital reports were that (i) the headers appeared highly pixelated and distorted, the hospital logo was blurry to the point of being illegible, and both reports had the same problems despite being printed on different dates by different departments—the probable explanation being that the headers were cut and pasted, and (ii) the print dates preceded Mr. Tineo Laura's departure from Peru even though the copies were obtained afterwards. Mr. Tineo Laura states that, again, the RAD erred by performing a microscopic assessment

of the reports and it made findings that were based on speculation and suspicion with no evidentiary foundation.

[15] I find that Mr. Tineo Laura has not established a reviewable error in the RAD's assessment of the documentary evidence.

[16] The RAD did not err in finding that the March 2023 court decision was fraudulent. Mr. Tineo Laura confirmed at the RAD hearing that the physical copy of the decision was the very same physical copy the court mailed to his home in Peru. The RAD noted that court's stamp on the last page of the decision was blurry and highly pixelated, in contrast to text throughout the document which was of perfect quality. When the RAD put these concerns to Mr. Tineo Laura, he denied being able to see the blurriness and pixilation of the stamp and insisted that it appeared to him as if the document had been physically stamped. The RAD rejected this explanation, finding that Mr. Tineo Laura pretended he could not see the pixelation and even insisted that the judges had signed in ink when the document stated that all of the judges' signatures were electronic. The stamp appeared to be scanned and pasted, and the RAD expected that a decision issued directly from the court to a party would not contain imitations of a security feature like a court stamp.

[17] Mr. Tineo Laura takes issue with the RAD's reliance on *Kamiak* for the principle that it would be reasonable to expect a seal would not be inkjet printed onto a document: *Kamiak* at para 13. He states that in the 20 years since this 2005 decision, *Kamiak* has never been followed by the Federal Court and it is inconsistent with recent case law. I am not persuaded that *Kamiak*

is inconsistent with recent case law. Authenticity assessments are fact specific and findings about the authenticity of evidence are afforded deference, particularly when they are based on firsthand access to documents: *Jackson v Canada (Citizenship and Immigration)*, 2012 FC 1098 at para 33. It is not the Court's role on judicial review to substitute its own opinion for that of the RAD on what the documents' appearance suggests about their authenticity: *Lhamo v. Canada (Citizenship and Immigration)*, 2016 FC 873 at para 55.

[18] I agree with the respondent that the RAD reasonably found the police reports and the hospital reports to be fraudulent, based on similar irregularities. These reports were said to be the exact physical copies obtained from the police station and hospital. The RAD contrasted the high-quality text in the body of the police reports with what it found to be a faded police report header, blurry police logo, and poorer quality signature section and stamp. It found the headers of both hospital reports were highly pixelated and distorted, with a logo so blurry that it was barely legible, despite being allegedly printed by different hospital departments at different times. The print dates also indicated that the documents were printed before Mr. Tineo Laura left Peru, when he testified that the copies were obtained for him after he had left.

[19] Furthermore, the RAD's findings about Mr. Tineo Laura's credibility were not based on presenting fraudulent documents alone. The RAD also considered Mr. Tineo Laura's testimony in response to concerns about the documents, and the fact that he did not attempt to obtain certified copies of the documents after being instructed to do so.

[20] The RAD was not, as Mr. Tineo Laura contends, attempting to point to anything to confirm its suspicion that the documents were fraudulent. The RAD identified multiple issues with each document, patterns of shared irregular features, issues with Mr. Tineo Laura's explanations for the irregularities, and the failure to produce certified copies. Furthermore, the RAD identified issues with the content of the documents themselves and made findings that Mr. Tineo Laura does not challenge, including that (i) allegations that gang members had targeted his mother were not credible because the timeline of events could not have happened in the way his mother and her friend had described, and (ii) there were material inconsistencies between Mr. Tineo Laura's basis of claim narrative and his testimony that he could not reasonably explain, which led the RAD to conclude that he presented two incompatible versions of events.

[21] The RAD stated that after weighing all of the evidence, it determined that the core allegations of risk were not credible. In my view, the RAD's credibility assessment was holistic, and Mr. Tineo Laura has not established that the decision was unreasonable. Accordingly, I must dismiss this application.

[22] The parties did not propose a question for certification. I find there is no question to certify.

JUDGMENT IN IMM-2804-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question for certification.

"Christine M. Pallotta"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2804-24

STYLE OF CAUSE: JOSE LUIS TINEO LAURA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 28, 2024

JUDGMENT AND REASONS: PALLOTTA J.

DATED: JUNE 10, 2025

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