

Federal Court



Cour fédérale

**Date: 20220718**

**Docket: IMM-258-21**

**Citation: 2022 FC 1062**

**Ottawa, Ontario, July 18, 2022**

**PRESENT: Mr. Justice Pentney**

**BETWEEN:**

**AHMED IBRAHIM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Ahmed Ibrahim, seeks judicial review of a decision of the Refugee Appeal Division (RAD) upholding a decision of the Refugee Protection Division (RPD) that he is not a refugee or a person in need of protection. Both the RPD and the RAD found that the Applicant had failed to establish his identity, mainly because of discrepancies in the documentary evidence he provided.

[2] The Applicant claims to be a citizen of Ghana, and says he fears persecution because of his perceived sexuality. The RAD accepted new evidence filed by the Applicant, including two declarations from Ghanaian citizens attesting to his identity, and an article describing a gay man being attacked by vigilantes in that country. However, the RAD did not convene an oral hearing, noting that the Applicant had not requested one and that the new evidence did not raise a serious issue relating to the Applicant's credibility and therefore the statutory criteria to hold an oral hearing were not met.

[3] The Applicant claims that the RAD denied him procedural fairness when it admitted new evidence but did not hold an oral hearing that would have allowed him to answer the RAD's questions about his identity documents. I am not persuaded by this argument. The RAD found that the new evidence did not address the core concern about the date of the Applicant's birth, and thus no oral hearing was required. There is no basis to question this decision. Oral hearings are the exception and the RAD applied the statutory framework that guides the decision whether to hold an oral hearing (subsection 110(6) of the *Immigration and Refugee Protection Act*, SC 2001 c 27, and see *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96 at para 48). I find that the procedure was fair in the circumstances.

[4] Turning to the substance of the matter, the RAD examined the evidence about the Applicant's identity, discussing each document provided in some detail and explaining why they were not persuaded that the Applicant met his onus to establish his identity.

[5] The RAD noted several problems with the evidence. The RAD's first and central concern was that, while the documents all showed the Applicant's day and month of birth as October 18, some showed his year of birth as 1975 and others as 1980.

[6] The Applicant testified that he was born in 1975, and presented a birth certificate showing that as the year of his birth. However, the most recent passport he provided and his original Basis of Claim form both stated he was born in 1980. The Applicant had failed to explain why he had not taken steps to correct the error in his passport, despite knowing that this was an issue since, at the latest, the communication of the RPD decision. The RAD observed that the Applicant had almost two years to try to correct the document but failed to do so.

[7] The RAD also noted other problems with the documentary evidence.

[8] The second major problem the RAD identified concerns the Applicant's registration of birth. He provided a copy of this document; he said the original had been lost but his brother had obtained a new copy from a hospital in Ghana. The RAD relied on information about the process for issuing birth certificates from the National Documentation Package (NDP) for Ghana to question the format of the updated copy, and noted certain discrepancies on its face. For example, the Applicant's father was listed as the informant of the registration in 2018 but he had passed away in 2005. In addition, the birth registration was dated 2018 rather than the date of the Applicant's birth.

[9] The third problem with the Applicant's evidence that the RAD identified concerns a copy of the Applicant's electoral card, which did not match the version in the NDP information, nor the copies provided with declarations the Applicant had submitted as new evidence. The RAD concluded that the electoral card was not reliable evidence of the Applicant's identity.

[10] Based on this review of the documentary evidence, and in the absence of adequate explanations from the Applicant, the RAD upheld the RPD decision, finding that the Applicant had failed to establish his identity.

[11] The Applicant asserts that the decision is unreasonable, challenging the RAD's rejection of his explanation for the error in the birth year shown in his passport, and submits that this erroneous finding tainted its treatment of the other documentary evidence. He also points to evidence about the availability of birth certificates that he says contradicts the findings of the RAD. The Applicant argues that the RAD did not have a sufficient basis to rebut the presumption that documents – in particular official documents – are valid. Finally, the Applicant asserts that given the numerous identification documents he provided, the RAD's rejection of his claim on the ground that he failed to establish his identity is unreasonable.

[12] I am not persuaded. The RAD considered the evidence in light of the applicable legal framework, noting that identity is a crucial element of a refugee claim and the onus lies on an applicant to establish it. The RAD conducted a thorough examination of the evidence, and the overall conclusions regarding the documents, and in particular, the discrepancies regarding the year of birth, are fully explained. They are also grounded in the evidence. The doubts the RAD expressed about the origin of the copy of the birth registration and the validity of the electoral card are based on the evidence in the record, as well as the Applicant's failure to provide an adequate explanation for the discrepancies. The RAD's analysis is intelligible and transparent.

[13] As argued by the Respondent, the RAD's concerns were not with the sufficiency of the evidence provided, but rather with their legitimacy, and the Applicant's lack of effort to reconcile discrepancies within those documents, especially those the panel considered most

probative: the birth registration and passport. The Applicant's arguments essentially amount to a request to the Court to re-weigh the evidence, but that is not the role of a court on judicial review.

[14] For all of these reasons, the application for judicial review will be dismissed. There is no question of general importance for certification.

**JUDGMENT in IMM-258-21**

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

1. The application for judicial review is dismissed.
2. There is no question of general importance for certification.

“William F. Pentney”

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Judge

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

**DOCKET:** IMM-258-21

**STYLE OF CAUSE:** AHMED IBRAHIM v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VIDEOCONFERENCE  
**By**

**DATE OF HEARING:** OCTOBER 26, 2021

**JUDGMENT AND REASONS:** PENTNEY J.

**DATED:** JULY 18, 2022

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