

Federal Court



Cour fédérale

Date: 20221214

Docket: IMM-8520-21

Citation: 2022 FC 1725

Ottawa, Ontario, December 14, 2022

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

GLADYS AKWI MUSORO

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Gladys Akwi Musoro, seeks judicial review of a decision of the Refugee Appeal Division (“RAD”) dated October 25, 2021, confirming the determination of the Refugee Protection Division (“RPD”) that the Applicant is neither a Convention refugee nor a person in need of protection under sections 96 and 97(1) of the *Immigration and Refugee Protection Act*,

SC 2001, c 27 (“*IRPA*”). The RAD found the determinative issue to be the Applicant’s credibility.

[2] The Applicant submits that the RAD erred in its credibility determination by ignoring key evidence, engaging in an unduly microscopic assessment of the application, and making finds unsupported by the evidentiary record.

[3] For the reasons that follow, I find that the RAD’s decision is reasonable. This application for judicial review is therefore dismissed.

II. Facts

A. The Applicant

[4] The Applicant is a 58-year-old citizen of Cameroon. She is an Anglophone Cameroonian and a supporter of the Ambazonian Separatist Movement (“ASM”), which advocates for the secession and independence of Cameroon’s Anglophone regions.

[5] On October 6, 2016, the Applicant attended an ASM protest in Cameroon. The Applicant claims that the peaceful protest was met with severe brutality by police and military forces, killing and wounding protestors during the protest and in the weeks following it.

[6] On January 17, 2017, the Applicant claims the Cameroonian government revoked access to Internet and electricity across Anglophone regions. The Applicant could no longer contact her

family abroad to let them know she was still alive. Since many of her friends and neighbours who participated in the October 6 protest were arrested or killed, the Applicant feared the same would happen to her.

[7] On January 27, 2017, the Applicant relocated to Bafoussam, located near a Francophone region with Internet access, in order to be able to contact her family. The Applicant's son, Sylvanus Fonguh (Mr. "Fonguh"), told her to relocate to Yaoundé because no one knew her there and she would therefore be safer. Mr. Fonguh helped the Applicant establish a printing business in Yaoundé to generate her own income.

[8] On September 22, 2017, the Applicant claims that ASM leaders organized a grand rally across the Anglophone regions to demand the release of those who were arrested following the October 6, 2016 protest. The Applicant contributed to this effort by printing flyers for this protest at her printing press and, with the help of her friend Thomas, who is an ASM militant, transporting the flyers to Bamenda to be distributed. The September 22 protest was met with violent resistance. A similar protest was organized on October 1, 2017 and was met with the same resistance, resulting in large-scale violence.

[9] The Applicant claims that one of her Francophone employees at the printing press discovered a protest flyer and reported the Applicant to the police. The Applicant hid at her local church in Yaoundé. While there, the manager of the Applicant's printing business called to inform her that the police had sealed her business premises and had issued a warrant for her

arrest. The manager later informed the Applicant that the business's bank account had also been blocked.

[10] The Applicant learned of the disappearance of her friend Thomas, who had helped her distribute the flyers. The Applicant claims this disappearance stoked her fear for her life.

[11] While hiding at her church in Yaoundé, the church pastor helped the Applicant relocate to Douala in May 2018. From there, she eventually travelled to Canada on a Temporary Resident Visa ("TRV") on May 5, 2018. She made a claim for refugee status in August 2018.

B. *RPD Decision*

[12] In a decision dated April 15, 2021, the RPD rejected the Applicant's refugee claim, finding that she lacked credibility.

[13] The RPD noted that the presumption of truthfulness of a claimant's allegations is rebuttable if the allegations are found not to be coherent, plausible, or run counter to generally known facts. Under section 96 of *IRPA*, persecution is distinguishable from discrimination in that the former requires reliable evidence that the claimant "stands a reasonable chance that they will face a serious and often sustained or systemic violation of their fundamental rights" and they have been "targeted, either personally or collectively."

[14] The RPD found that the Applicant's claim that the police warrant issued for her arrest is evidence of a well-founded risk of persecution lacks credibility because she failed to proffer the

warrant as evidence or provide an explanation for its absence. The RPD found that this weakened the credibility of her allegations of persecution.

[15] The RPD also noted that a copy of the protest flyer, or a summarized description of the flyer's contents, was also not proffered as evidence, despite her acts of printing and distributing the flyers being a turning point in her narrative. The contents of the flyer, such as whether they incited sedition or simply stated the place and time of the rally, affect an assessment of whether it is reasonable to believe that the Applicant's employee reported her for printing it and police subsequently issued a warrant for the Applicant's arrest. Ultimately, the RPD determined that the Applicant's testimony regarding the flyer "does not have the ring of truth to it" and it is "more likely than not that the claimant is both embellishing and exaggerating the role of these flyers in her claim," therefore undermining the credibility of a central element of her claim.

[16] The RPD found the Applicant's testimony to contain other exaggerations, such as her assertion that she is emotionally and psychologically traumatized by her inability to contact her family abroad, which further undermined her credibility.

[17] The RPD looked to the National Documentation Package ("NDP") evidence regarding Anglophone and Francophone relations in Cameroon. The NDP reported "major divisions" between Anglophone and Francophone groups, the UN Economic and Social Council has expressed concern about "de facto discrimination and marginalization" faced by the Anglophone minority, and the United States Department of State recognized "significant human rights issues" in Cameroon generally. The RPD found this evidence to support elements of the Applicant's

claim regarding the difficulty as an Anglophone Cameroonian, but also noted that the evidence stating that at least half of the Cameroonian population speaks Pidgin English would partly mitigate the effects of being part of the Anglophone minority.

[18] The RPD also overviewed objective reports of violence perpetrated by Anglophone secessionist groups, citing NDP evidence that members of militant secessionist groups have targeted civilians, committed kidnappings, harmed property and engaged in other violent acts. The RPD found that it is “perhaps not surprising” that the Cameroonian government would seek to impose lawful sanctions on such groups, given their violent means.

[19] The RPD found insufficient credible evidence to establish that the Applicant was more than a “nominal and non-violent supporter” of Anglophone advocacy efforts, that she was being sought by Cameroonian authorities for her advocacy, or that she would consequently face persecution for her advocacy. The RPD also found insufficient evidence to show that the Applicant would face a risk to her life, cruel and unusual treatment or punishment, or a danger of torture in Cameroon, simply by being a member of the Anglophone minority or opposing the marginalization of Anglophone Cameroonians. The RPD therefore determined that the Applicant is not a Convention refugee or person in need of protection under section 96 or subsection 97(1) of *IRPA*. The Applicant appealed this decision to the RAD.

C. *Decision Under Review*

[20] In a decision dated October 25, 2021, the RAD confirmed the RPD’s determination and found that the Applicant’s claim lacked credibility.

[21] On appeal, the Applicant submitted that the RPD erred in misapprehending the core of her refugee claim, specifically by confusing discrimination and persecution, and erroneously interpreting her claim as being against marginalization by the Cameroonian government. The Applicant also submitted that the RPD unreasonably favoured documentary evidence; focused unreasonably on the Applicant's failure to proffer the warrant or flyer as evidence, despite her reasonable explanations for the lack thereof; and erroneously dismissed her *sur place* claim.

[22] The RAD found that contrary to the Applicant's submissions, the RPD did not solely consider the discrimination she suffered as an Anglophone Cameroonian, but also extensively reviewed the credibility of her claim that she is at risk of persecution for her political advocacy. The RAD noted that the Applicant's memorandum offered little explanation as to how the RPD had solely considered the issue of discrimination.

[23] The RAD determined that the RPD correctly found written corroboration was required to support the Applicant's allegations that she was involved in the printing and distribution of the protest flyer and that the police issued a warrant for her arrest. The RAD did not find that the RPD unreasonably focused on the lack of this documentary evidence, particularly since there was no internal consistency between the oral evidence and the evidence in the Applicant's Basis of Claim ("BOC") form. The RAD found that the Applicant's inability to specify the content of the flyer, despite her interest in the cause, or the meaning of the common abbreviation "Amba", which refers to the ASM, further undermined the credibility of her claim.

[24] The RAD found that although corroborative evidence is usually not necessary, it was needed in the Applicant's case given the doubts about her credibility. Firstly, the RAD noted that although it may have been dangerous for the Applicant to secure a copy of the flyer while still in Cameroon, she made no efforts to obtain a copy from anyone she knew who attended the protest, once she was in Canada. The Applicant's contention that she did not feel safe to keep a copy of the flyer is inconsistent with the fact that she kept a copy at her business, which was later discovered by an employee. Secondly, the RAD found that the RPD correctly determined that the Applicant's inability to describe the contents of the warrant diminished her credibility, as it would have been reasonable to expect her to ask for a description of this warrant from the manager of her business, who allegedly informed her of its existence. Although the RAD agreed that there might have been a risk for the Applicant to obtain a copy of the warrant, it found that she did not attempt to gain information about its contents, further diminishing her credibility.

[25] The RAD further found that the RPD correctly determined that the contents of the flyer affected the credibility of the Applicant's claim. Although finding some merit to the submission that any type of protest flyer may be considered offensive to authorities, the RAD agreed with the RPD that the flyer might have caused the authorities different levels of concern depending on its contents. Although this alone would be insufficient to conclude that the Applicant is not credible, as that would be a plausibility finding based on speculation, the RAD found that this is one of several considerations that reasonably led the RPD to determine that the Applicant failed to credibly establish that she would be reported to the police for having this flyer in her drawer.

[26] The RAD disagreed with the Applicant's submission that the RPD dismissed her *sur place* claim, specifically in ignoring evidence of her involvement in Southern Cameroons Relief Organization in Canada ("SCRO") and of members of this organization being targeted by Cameroonian authorities for activities carried out abroad. The RAD noted that the Applicant attended one protest in 2016 in Cameroon, prior to printing the flyers in 2017, and three protests in Canada. The RAD reiterated that the Applicant did not know what "Amba" stands for, despite proffering a photograph of her standing next to a man holding a sign with the word "Ambazonia" on it. The RAD ultimately confirmed that there is insufficient evidence to show that the Applicant is more than a nominal and non-violent supporter of Anglophone advocacy, and that this profile does not align with the profile of the Anglophone secessionist activists described in the documentary evidence and targeted by Cameroonian authorities.

[27] The RAD ultimately found that the Applicant generally lacks credibility and is therefore not a Convention refugee or person in need of protection under sections 96 and 97(1) of *IRPA*.

III. Issue and Standard of Review

[28] This application for judicial review raises the sole issue of whether the RAD's decision is reasonable.

[29] The standard of review is not disputed. The parties agree that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25) ("*Vavilov*"). I agree.

[30] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

IV. Analysis

[31] The Applicant submits that the RAD erred in its credibility determination, on the basis of several erroneous findings. In my view, the decision is reasonable in each of its central findings.

A. Discrimination Versus Persecution

[32] The Applicant submits that the RAD unreasonably upheld the RPD's finding that the Applicant's claim centered on discrimination rather than persecution. The Applicant submits that the RPD misinterpreted her claim as dealing with discrimination as an Anglophone Cameroonian, whereas her claim is hinged on her ethnicity as an Anglophone Cameroonian and her political opinion.

[33] The Respondent maintains that the RAD's decision is reasonable. On the Applicant's submission that the RAD failed to address the RPD's misinterpretation of the refugee claim as

centering on discrimination rather than persecution, the Respondent submits that the Applicant made the same argument before the RAD, which the RAD assessed. Reviewing this submission, the RAD found that the RPD decision exhibits an attentiveness to the Applicant's evidence pertaining to her political implication, which hinges primarily on her printing and delivering protest flyers, according to her BOC form and testimony. The Respondent submits that the Applicant failed to point to a reviewable error committed by the RAD in making this determination.

[34] I agree with the Respondent. The RAD's reasons exhibit an attentiveness to this argument, which was also presented to the RAD on appeal. The Applicant's submissions are unclear as to where or how the RPD focused on discrimination over persecution. The RAD reasonably concluded that the RPD clearly addressed the Applicant's evidence at the core of her claim, which pointed to her political involvement in the Anglophone cause, specifically in the acts of printing and distributing the protest flyers. It is this act that, according to the Applicant's BOC form and testimony, constituted a "turning point" in her allegation of a risk of persecution in Cameroon, and it is this same narrative that the RPD assessed. In doing so, the RPD reasonably found that this narrative lacked credibility. The mere fact that the RPD considered other aspects of the Applicant's evidence in arriving at this conclusion does not mean that it failed to consider the core of the Applicant's claim concerning potential persecution.

B. *Lack of Documentary Evidence*

[35] The Applicant submits that the RAD unreasonably impugned her credibility based on the lack of documentary evidence, specifically her failure to proffer a copy of the protest flyer or the

arrest warrant, or to show efforts in obtaining this evidence. The Applicant notes that the RAD erroneously referred to the Applicant as having “sympathized with and wanted to contribute to the Amba movement,” despite her being an active member of the movement, and that the RAD unreasonably impugned the Applicant for failing to specify the contents of the protest flyer or the arrest warrant because the RPD never asked her to recount the contents of either document. This results in a credibility finding that lacks a proper evidentiary basis, which the Applicant submits runs counter to this Court’s jurisprudence. The Applicant notes that at the hearing, the RPD member confirmed with the Applicant that she was never given a copy of the arrest warrant, and it is therefore unreasonable for her to expect to recount its contents. Ultimately, the Applicant submits that the RAD’s adverse credibility finding based on the lack of documentary evidence is unreasonable and merely echoes the erroneous findings of the RPD on this point.

[36] The Applicant further submits that the RAD unreasonably undermined the core of the Applicant’s claim on the basis that she does not know the meaning of the abbreviation “Amba” and when the evidence and hearing transcript are viewed as a whole, it is clear that she knows what the movement represents. This Court found that the assessment of a refugee claim cannot be made into a memory test and should not involve microscopic treatments of the evidence, and the RAD’s determination on this point is therefore unreasonable in light of the jurisprudence (*Shabab v Canada (Citizenship and Immigration)*, 2016 FC 872 at para 39; *Varon v Canada (Citizenship and Immigration)*, 2015 FC 356).

[37] On the general lack of documentary evidence, the Respondent maintains that the RPD and RAD are entitled to make adverse findings on the basis of an applicant’s failure to adduce

supporting evidence that could have been obtained or could have reasonably been expected, particularly in cases where there are other reasons to doubt an applicant's credibility (*Ortiz Juarez v Canada (Minister of Citizenship and Immigration)*, 2006 FC 288; *Morka v Canada (Citizenship and Immigration)*, 2007 FC 315). In the Applicant's case, the RAD identified a number of credibility concerns, such as her inability to specify the meaning of "Amba"; her explanation that she did not keep a copy of the flyer because it was dangerous, despite keeping it in a drawer at her business; and her allegation that her business bank accounts had been frozen, despite evidence of transactions taking place after October 2017. With the Applicant's credibility already in question, the Respondent submits that the RAD was entitled to draw a negative inference from the lack of corroborative documentary evidence.

[38] On the Applicant's submission that her credibility was unreasonably impugned for failing to recount the flyer's contents because she was never asked to do so, the Respondent submits that this particular assessment by the RAD was made in the context of the RPD's finding that it was troubling that the flyer was not proffered in evidence, not based on any question asked in the RPD hearing. The RPD found that the Applicant's credibility was undermined by this failure to obtain a copy, provide an explanation for its absence, and show any efforts to obtain a copy, or even summarize its contents, as she bears an onus to provide this information. On the contents of the arrest warrant, the Respondent similarly submits that the RAD did not expect her to have a copy of the warrant but, rather, found it reasonable to expect that the Applicant would have attempted to obtain a copy from the manager, or any statement from the manager corroborative that a warrant was issued for her arrest.

[39] On the Applicant's failure to specify the meaning of "Amba", the Respondent maintains that it was not a microscopic credibility finding that the Applicant could reasonably be expected to know the name of the organization with which she claims to be involved.

[40] In my view, the RAD reasonably upheld the RPD's determination on the lack of corroborative evidence. It is trite law that although a negative credibility finding cannot be drawn solely from the absence of corroborative evidence, a failure to provide such evidence can be a valid consideration when assessing credibility if the claimant's credibility is already at issue and no reasonable explanation is provided (*Luo v Canada (Citizenship and Immigration)*, 2019 FC 823 at paras 18-22 ("*Luo*"); *Amarapala v Canada (Minister of Citizenship and Immigration)*, 2004 FC 12 at para 10; *Ndjavera v Canada (Citizenship and Immigration)*, 2013 FC 452 at paras 6-7). A failure to proffer evidence that could be reasonably expected may also validly lead to an adverse credibility finding (*Luo* at para 21; *Radics v Canada (Citizenship and Immigration)*, 2014 FC 110 at paras 31-32 ("*Radics*")).

[41] The RAD's reasons intelligibly and transparently apply these principles regarding corroborative evidence (*Vavilov* at para 15). The RAD explains in detail why corroborative evidence is necessary in the Applicant's case, outlining the various credibility concerns.

[42] I do not find *all* of the RAD's credibility concerns to be a valid basis to require corroborative evidence. This Court has established that the lack of corroborative evidence cannot *itself* be a reason to doubt a claimant's credibility and subsequently require corroborative evidence, falling into an "erroneous circular analysis" (*Khamdamov v Canada (Citizenship and*

Immigration), 2016 FC 1148 at para 16; *Ruan v Canada (Citizenship and Immigration)*, 2019 FC 1522 at para 38). The RAD in the Applicant's case uses similar reasoning when it states that corroborative evidence is necessary, in part, because "the failure to try to obtain corroboration of the existence of this flyer, diminishes the Appellant's credibility."

[43] That being said, the lack of corroborating evidence in the Applicant's case was not the sole basis for the RAD's negative credibility findings in this case. It also reasonably drew adverse credibility findings from the Applicant's failure to describe the contents or nature of the protest flyer or arrest warrant, despite these documents being central to the Applicant's claim that she faces a well-founded risk of persecution in Cameroon. The Applicant also alleged that her printing business was shut down and her business bank accounts were frozen, despite there being evidence of transactions of various types after October 17 and in 2018. In *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924, this Court stated that the presumption of truthfulness applicable to refugee claims is rebutted where the evidence is inconsistent with an applicant's testimony (at para 21). The RAD had valid reason to expect corroborating evidence, given the already doubtful credibility of the Applicant, and its reasons for drawing adverse credibility findings based on the lack of corroborating evidence are intelligible and transparent (*Vavilov* at para 15).

[44] I also find that the specific evidence that is lacking in the Applicant's claim can be reasonably expected in her circumstances, particularly since these documents are central to her claim. In *Radics*, this Court found that the RPD reasonably impugned the applicants' credibility for failing to produce documents corroborating a central element of their claims and they could

reasonably be expected to be available (at para 32). Similarly, in the Applicant's case, the protest flyer and the arrest warrant are key aspects of her claim that she faces a well-founded risk of persecution if returned to Cameroon. Her central narrative is that her significant contribution to the Ambazonian cause when in Cameroon was using her printing business to print protest flyers, which resulted in a warrant for her arrest and a subsequent fear for her safety.

[45] Although I find merit in the Applicant's submission that it would cause further risk for her to leave Cameroon with a copy of the flyer, and that she never received the warrant from the manager, she offered no evidence of attempts to obtain this information after arriving in Canada. Her contacts in the SCRO or the wife of her friend Thomas, who helped her distribute the flyers, may have reasonably been able to attest to the flyer's contents and the fact that the Applicant was involved in their printing and dissemination. She claims she did not keep a copy because it was too dangerous to do so, but was allegedly reported by her employee because she kept a copy of the flyer at her business. In terms of the arrest warrant, the Applicant similarly showed no efforts to speak with the manager who informed her of the warrant, at the very least to attest to its contents, in an attempt to establish her claim that the arrest warrant contributed to her well-founded fear of persecution in Cameroon. Ultimately, the RAD reasonably upheld the RPD's determination regarding the lack of corroborating evidence, and reasonably found that certain corroborating documents were reasonably expected in the Applicant's case.

C. *Sur Place Claim*

[46] The Applicant submits that the RAD also erred in determining that the Applicant is no more than a nominal and non-violent supporter of the Ambazonian cause, in part on the basis

that her profile does not fit that of the activists typically targeted by the government. The Applicant notes that the objective country evidence shows that those engaging in active advocacy in the Cameroonian diaspora also face risks. The Applicant submits that this objective evidence, and her active membership in the SCRO, together indicate that the RAD's conclusion on this point is inconsistent with the evidentiary record and therefore unreasonable.

[47] The Respondent maintains that the RAD reasonably found insufficient evidence to support a *sur place* claim, and it is entitled to consider the Applicant's lack of credibility as the dispositive issue. The Respondent references *Zhang v Canada (Citizenship and Immigration)*, 2016 FC 765, where this Court found that the RAD had reasonably determined that "a *sur place* claim could not be maintain in the absence of evidence that the making of the refugee claim had specifically come to the attention of the authorities of the claimant's country of origin" (at para 27). The Respondent submits that in the Applicant's case, the RAD reasonably found insufficient evidence that the Applicant's activities have come to the attention of Cameroonian authorities or she is being sought by them, and the Applicant has failed to point to a reviewable error committed by the RAD in its finding on her *sur place* claim.

[48] I agree with the Respondent. Reasonableness review is concerned with whether the decision as a whole is reasonable in light of the factual and evidentiary matrix, not to reweigh the evidence (*Vavilov* at paras 15, 116, 125). Reviewing the RAD's decision as a whole, its determination regarding the Applicant's *sur place* claim aligns with the evidence before it. I do not find the RAD's statement that the Applicant's profile of "activists" referred to in the documentary evidence who are targeted by authorities to stand for the conclusion that *only*

activists are targeted. Rather, both the RPD and RAD reasonably concluded that an assessment of the evidence points to a particular profile of Cameroonian advocate for the Anglophone cause who is targeted by authorities, and the Applicant provided insufficient evidence to show that her activities would include her in this targeted group or that she is being sought by authorities for her activities in Canada.

V. Conclusion

[49] In my view, the RAD reasonably upheld the RPD's determination that the Applicant is not credible, and is therefore neither a Convention refugee nor a person in need of protection pursuant to sections 96 and 97(1) of *IRPA*. This application for judicial review is therefore dismissed. No questions for certifications were raised, and I agree that none arise.

JUDGMENT in IMM-8520-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8520-21

STYLE OF CAUSE: GLADYS AKWI MUSORO v THE MINISTER OF
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PLACE OF HEARING: BY VIDEOCONFERENCE

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