

Federal Court



Cour fédérale

**Date: 20151125**

**Docket: IMM-2654-15**

**Citation: 2015 FC 1313**

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

**Montréal, Quebec, November 25, 2015**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**PATRICK MASAKID BIKOKO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Introduction

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], of a decision by the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada, dated May 13, 2015,

rejecting the applicant's claim for protection as a refugee or a person in need of protection within the meaning of sections 96 and 97 of the IRPA.

## II. Facts

[2] The applicant, Patrick Masakid Bikoko, is 44 years old and a citizen of the Democratic Republic of the Congo [DRC].

[3] He alleges in his Basis of Claim [BOC] form that he had to leave the DRC because he was housing individuals (his brother and his nephew) who had participated in a demonstration on December 31, 2013, that was heavily suppressed by Congolese authorities. The Congolese army had apparently shot at the demonstrators, and the applicant's brother had died after being hit by bullets. After the demonstration, the applicant's nephew continued to live with the applicant until February 2014.

[4] During the night of March 1, 2014, Congolese soldiers looking for people who had attended the December 2013 demonstration came to the applicant's home. The applicant allegedly told them that his nephew was no longer living with him. On April 19, 2014, the applicant left the DRC to travel in the United States for pleasure. While he was in the United States, he learned in a telephone call with his wife that she had been beaten by Congolese soldiers and that he himself had been accused of being a terrorist as a result of his having housed his nephew. Following this conversation, the applicant decided that it would be best to seek refugee protection in Canada.

[5] On May 20, 2014, the applicant arrived in Canada, and on July 10, 2014, he filed his refugee protection claim. In a decision dated September 22, 2014, the Refugee Protection Division [RPD] rejected the applicant's refugee protection claim on the basis that his story was not credible and contradicted the objective documentary evidence, and that, moreover, the applicant had not established, through documentation, that there was a family relationship between him and his alleged brother and nephew.

[6] In a decision dated May 13, 2013, the RAD rejected the applicant's appeal. The RAD agreed with the RPD's findings concerning the applicant's lack of credibility and found that the RPD was entitled to draw a negative inference from the fact that the applicant had not sought refugee protection in the United States.

### III. Analysis

[7] First, the Court notes that the RAD acted within its jurisdiction and applied the correct standard of review to the RPD's decision by following the guidance of this Court in *Huruglica v Canada (Minister of Citizenship and Immigration)*, 2014 FC 799.

[8] The only determinative issue, therefore, is whether the RAD's findings are reasonable. The applicable standard of review for the RAD's credibility findings is that of reasonableness (*Djossou v Canada (Minister of Citizenship and Immigration)*, 2014 FC 1080 at para 33; *Bui v Canada (Minister of Citizenship and Immigration)*, 2014 FC 1145 at para 17).

[9] Before this Court, the applicant's main argument was that the RAD's findings regarding his lack of credibility are unreasonable and unsupported by the evidence, and therefore constitute an error in law. Among other things, the applicant submitted to this Court explanations as to why it was impossible for him to present documentary evidence proving that his brother and nephew had lived with him, and explanations for the contradictions between his testimony and the documentary evidence. Finally, the applicant concluded that even if there were contradictions, they did not concern the essential elements of his account.

[10] In the matter at bar, the Court is of the opinion that the RAD's decision to dismiss the appeal of the RPD's decision is reasonable and that the RAD's findings are supported by the evidence. It appears from the RAD's findings that there are significant contradictions between the applicant's story and the documentary evidence, which was found to be credible by the RAD. Moreover, the applicant was unable to support essential elements of his story through objective evidence. It is important to remember that unless the adverse credibility findings were made in a perverse and capricious manner, the Court's intervention is not warranted (*Rezmuves v Canada (Minister of Citizenship and Immigration)*, 2013 FC 973; *Evans v Canada (Minister of Citizenship and Immigration)*, 2011 FC 444). The applicant may disagree with the RPD's and the RAD's assessments of the evidence, but it is not the role of this Court to reweigh the evidence and to substitute its conclusions for those of the RAD (*Karakaya v Canada (Minister of Citizenship and Immigration)*, 2014 FC 777 at para 33). The RAD's decision, the parties' submissions and the evidence on the record reveal that there are many problems with respect to the credibility of the applicant's story. For these reasons, the Court finds that this application for judicial review should be dismissed.

IV. Conclusion

[11] The Court concludes that the RAD's decision is reasonable. Consequently, the application for judicial review is dismissed.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES** that the application for judicial review be dismissed. There is no question of importance to be certified.

“Michel M.J. Shore”

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Judge

Certified true translation  
Johanna Kratz, Translator

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

**DOCKET:** IMM-2654-15

**STYLE OF CAUSE:** PATRICK MASAKID BIKOKO v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** NOVEMBER 24, 2015

**JUDGMENT AND REASONS:** SHORE J.

**DATED:** NOVEMBER 25, 2015

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