

Federal Court



Cour fédérale

**Date: 20180917**

**Docket: IMM-21-18**

**Citation: 2018 FC 924**

**Ottawa, Ontario, September 17, 2018**

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

**BETWEEN:**

**PATIENCE LAWANI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The applicant, Ms. Patience Lawani, is a citizen of Nigeria. When she arrived in Canada in September 2012, she sought refugee status on the basis that she feared domestic abuse, including forced circumcision. Shortly before the hearing of her claim before the Refugee Protection Division [RPD], which only took place in November 2017, Ms. Lawani added a

second ground to her refugee claim: she also feared persecution in Nigeria because of her status as a bisexual woman, her sexual orientation having evolved while she stayed in Canada. In a decision issued in December 2017, the RPD determined that Ms. Lawani was neither a Convention refugee nor a person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001 c 27. The RPD rejected Ms. Lawani's refugee claim on credibility issues.

[2] Ms. Lawani now seeks judicial review of the RPD's decision. She argues that the RPD erred in rejecting her claim for refugee protection on the basis that it lacked credibility. She asks this Court to set aside the decision and to return the case to the RPD so that her request can be reassessed by a differently constituted panel.

[3] The sole issue raised by Ms. Lawani's application for judicial review is to determine whether the RPD's negative credibility findings were reasonable. For the reasons that follow, I will dismiss this application. Having considered the RPD's findings, the evidence before the panel and the applicable law, I can find no basis for overturning the RPD's decision. The adverse credibility findings are responsive to the evidence, and the RPD's reasons have the qualities that make the decision reasonable in that it falls within a range of possible, acceptable outcomes defensible in respect of the facts and the law. There are therefore no grounds to justify this Court's intervention.

## II. Background

### A. *The factual context*

[4] Ms. Lawani alleged two grounds for seeking refugee protection in Canada: domestic abuse in Nigeria and her bisexuality.

[5] She first claimed that she suffered domestic abuse at the hands of Mr. Edokpolor Omoruyi, to whom she refers as “Chief”. Mr. Omoruyi acted as a father to her after her own father died, and paid for her education. While she was in high school, he declared his romantic interest to her. Then, in university, Ms. Lawani developed feelings for Mr. Omoruyi and they started having sexual relations. She moved in with him in 2010. One evening, Mr. Omoruyi discovered that Ms. Lawani was exchanging text messages with another man, and he hit her. She said that she wanted to get out of his house, as they were not married. In response, Mr. Omoruyi went to Ms. Lawani’s family and arranged for their marriage to take place in October 2010. Mr. Omoruyi became possessive and violent, and threatened to kill Ms. Lawani if she ever disrespected him. When Mr. Omoruyi started planning for the marriage, he inquired whether Ms. Lawani was circumcised. Both Ms. Lawani and her mother expressed their surprise to this question as she and Mr. Omoruyi had been sleeping together for two years. Ms. Lawani’s uncles agreed to her circumcision and took dowry from Mr. Omoruyi. Further to those events, Ms. Lawani fled to Canada in September 2012.

[6] More than five years elapsed before the RPD scheduled the hearing of Ms. Lawani’s refugee claim in November 2017. Eight days before the RPD hearing, Ms. Lawani stated that she

was bisexual, having had relationships with three women since 2014 and a three-month relationship with a man in 2015. She thus claimed that she also feared persecution in Nigeria because of her sexual orientation. She explained the late disclosure of this new ground of persecution by the fact that her previous counsel had advised her to wait and to only reveal this information at the RPD hearing.

**B. *The RPD's decision***

[7] The RPD provided five main reasons for rejecting Ms. Lawani's refugee claim and for its negative credibility findings. The first three stemmed from Ms. Lawani's new allegation about her sexual orientation, whereas the last two were related to her initial claim of feared domestic abuse.

[8] With respect to Ms. Lawani's bisexuality, the RPD first had concerns with the late disclosure of this allegation. In the RPD's view, the timing suggested that it was made up in the month before the RPD hearing. Relying on his experience, the panel found implausible that legal counsel would suggest to a claimant to retain such material information until the day of the hearing. Moreover, most of the documents presented in support of Ms. Lawani's bisexuality allegation were dated after the new counsel was retained. In the end, the RPD found unsatisfactory Ms. Lawani's explanations for the late filing of such a material new allegation.

[9] Second, the RPD found that Ms. Lawani's use of the term "bisexual" was an improper characterization of her sexual identity. In light of Ms. Lawani's stated preference for sleeping with women, the RPD believed that "the claimant must be a lesbian as she only sleeps with and

is attracted to women”. The RPD emphasized the importance that Ms. Lawani should have proved that she had slept with a man since her arrival in Canada, if she were to label herself as bisexual. Based on its understanding of the evidence, the panel concluded that Ms. Lawani did not have sex with a man since 2014, and raised credibility issues concerning Ms. Lawani sleeping with a man before 2014. According to the RPD, “[i]f the claimant were (and allegedly continues to be) so traumatized, stressed and profoundly affected by the allegedly abusive relationship with Chief, it makes no sense that she would resume heterosexual relations with men upon arrival in Canada until she turned to lesbian relationships”. On Ms. Lawani’s sexual identity, the RPD also noted her demeanour and discomfort during the hearing, her lack of knowledge of usual homosexual nomenclature, as well as the lack of corroborating testimony and evidence. Ms. Lawani’s inability to distinguish between the terms led the RPD to have credibility concerns about the newly found alternative sexual orientation she claimed.

[10] Third, Ms. Lawani’s credibility was negatively impacted by the psychological report she filed, the affidavit of Francisca Ukeh – Ms. Lawani’s current girlfriend –, as well as Ms. Lawani’s confident behaviour at the hearing. The RPD gave no weight to the psychological report, as its portrayal of Ms. Lawani as an affected and distressed person did not match her bright and alert behaviour at the RPD hearing. In addition, the report relied on Ms. Lawani’s story found not to be credible by the RPD. Moreover, the report seemed to be based on templates used by the same psychotherapist in other claims. With respect to Ms. Lawani’s behaviour at the hearing, the RPD found that it was “inconsistent with someone impacted and ravaged by severe domestic abuse”, as alleged in the psychological report. Regarding Ms. Ukeh’s affidavit describing Ms. Lawani as a confident person, the RPD wrote that “it confirms the panel’s

observation of the claimant as confident and determined individual [*sic*] who comports herself in a manner entirely inconsistent with a person who claims to be abused or to fear persecution if she returns to Nigeria”.

[11] Turning to Ms. Lawani’s initial claim of feared domestic abuse, the RPD reviewed two significant aspects of Ms. Lawani’s allegations on this front, and did not find them plausible. First, the RPD doubted Ms. Lawani’s description of her relationship with Mr. Omoruyi, as the panel found implausible “that someone who has learned that his girlfriend is unfaithful by texting other men would be even more determined to marry that person [...]”. Second, the RPD also found implausible that Mr. Omoruyi would have asked Ms. Lawani’s family about her circumcision. The RPD did not believe that a man could not know whether his sexual partner is circumcised after having had sexual relations with her for almost two years.

[12] The RPD considered all credibility issues together, on a cumulative basis, and in the end, rejected Ms. Lawani’s claim for refugee protection. The RPD acknowledged the two distinct aspects underlying Ms. Lawani’s claim of refugee protection, and found that Ms. Lawani’s credibility was undermined on many core elements of her allegations, whether they related to her sexual orientation or to domestic abuse.

### **C. *The standard of review***

[13] With regards to the assessment of credibility by the RPD, the jurisprudence has already determined that the standard of reasonableness applies (*Aguebor v Canada (Minister of Employment and Immigration)* (1993), 160 NR 315 (FCA) at para 4; *Gomez Florez v Canada*

(*Citizenship and Immigration*), 2016 FC 659 [*Gomez Florez*] at para 20; *Soorasingam v Canada (Citizenship and Immigration)*, 2016 FC 691 [*Soorasingam*] at para 17). As a result, there is no need to proceed to a further analysis of the standard of review (*Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] at para 62).

[14] The standard of reasonableness requires to show deference to the decision-maker as it is “grounded in the legislature’s choice to give a specialized tribunal responsibility for administering the statutory provisions, and the expertise of the tribunal in so doing” (*Edmonton (City) v Edmonton East (Capilano) Shopping Centres Ltd*, 2016 SCC 47 [*City of Edmonton*] at para 33; *Dunsmuir* at paras 48-49). Under a reasonableness review, when a question of mixed fact and law falls squarely within the expertise of a decision-maker, “the reviewing court’s task is to supervise the tribunal’s approach in the context of the decision as a whole. Its role is not to impose an approach of its own choosing” (*Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 57).

[15] This deferential approach is particularly required when, as in this case, the impugned findings relate to the credibility and plausibility of a refugee claimant’s story. It is well established that RPD’s conclusions in that regard command a high degree of judicial deference upon judicial review, considering the role of trier of fact conferred to the administrative tribunal (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 [*Khosa*] at paras 59, 89; *Lawal v Canada (Citizenship and Immigration)*, 2015 FC 155 at para 9). Credibility findings go to the very core of the RPD’s expertise and have indeed been described as the “heartland” of the RPD’s jurisdiction (*Siad v Canada (Secretary of State)*, [1997] 1 FC 608 (FCA) at para 24; *Gomez*

*Florez* at para 19; *Soorasingam* at para 16; *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 [*Lubana*] at paras 7-8). The RPD is better placed to assess the credibility of a refugee claimant as the panel members see the witness at the hearing, observe the witness's demeanour and hear his or her testimony. The panel members thus have the opportunity and ability to assess the witness in respect of frankness, readiness to answer, coherence and consistency of oral testimony before them (*Navaratnam v Canada (Citizenship and Immigration)*, 2011 FC 856 at para 23). In addition, the RPD benefits from the specialized knowledge of its members to assess evidence relating to facts stemming from their field of expertise (*El-Khatib v Canada (Citizenship and Immigration)*, 2016 FC 471 at para 6).

[16] On such credibility and plausibility questions, a reviewing court can neither substitute its own view of a preferable outcome, nor can it reweigh the evidence (*Khosa* at para 59; *Diallo v Canada (Citizenship and Immigration)*, 2007 FC 1062 at para 30). The Court must not intervene with the RPD's decision so long as the panel came to a conclusion that is transparent, justifiable, intelligible, and within the range of possible, acceptable outcomes that are defensible in respect of the facts and the law (*Dunsmuir* at para 47). It is sufficient "if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes" (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 [*Newfoundland Nurses*] at para 16).



### III. Analysis

[17] The determinative issue before the RPD was credibility. Ms. Lawani advances various arguments against the RPD's findings on this front, focusing mostly on those related to her bisexuality claim. She contends that the RPD failed to characterize her bisexuality claim as a "sur place" claim. She also claims that the RPD did not proceed to a sound review of the evidence relating to her bisexuality status, but rather relied on a false sense of sexual identity expertise, outside the RPD's actual expertise. She further argues that the RPD should not have diagnosed her to be lesbian, as opposed to bisexual, only because she preferred sleeping with women, thus ignoring the fact that she also slept with men.

[18] Furthermore, Ms. Lawani complains that the RPD wrongfully concluded that presenting a late claim on her new sexual orientation affected her credibility. Ms. Lawani also submits that the RPD erred in its consideration of the psychological report as part of the assessment of her credibility (*Rudaragi v Canada (Minister of Citizenship and Immigration)*, 2006 FC 911 at para 6; *Khawaja v Canada (Minister of Citizenship and Immigration)* (1999), 172 FTR 287 at para 8). She pleads that the RPD wrongfully rejected the report and attacked the integrity of its author, relying on evidence that was not before it. Finally, Ms. Lawani contends that the RPD erred in rejecting the evidence of her fear to return to Nigeria due to past domestic abuse. In her view, the RPD failed to consider her claim of feared domestic abuse separately, and the panel's approach on this front was tainted by the previous negative credibility findings made with respect to her sexual orientation.

[19] I do not agree with Ms. Lawani's analysis and I am not persuaded by the arguments she raises against the RPD's adverse credibility findings. I am instead of the view that the RPD properly considered the evidence on the record and that this evidence amply supports the conclusions on Ms. Lawani's lack of credibility. The RPD provided detailed reasons stating why Ms. Lawani's testimony was being rejected, with respect to both dimensions of her refugee claim. Ms. Lawani presents various objections to the RPD's conclusions without showing how the decision is unreasonable, and her arguments essentially boil down to a reassessment of the evidence before the RPD. In short, on all credibility issues, Ms. Lawani simply expresses her disagreement with the RPD's assessment of the evidence and invites the Court to reweigh the evidence. However, this is not the Court's role when conducting a reasonableness review of factual findings. To the contrary, the RPD's determinations regarding Ms. Lawani's credibility are entitled to significant deference, and it is not up to the Court to substitute its own interpretation.

**A. *Relevant principles in analyzing credibility***

[20] It is useful to start by summarizing the main principles governing the manner in which an administrative tribunal like the RPD must assess the credibility of refugee applicants (*Guyen v Canada (Citizenship and Immigration)*, 2018 FC 38 at paras 34-42; *Gong v Canada (Citizenship and Immigration)*, 2017 FC 165 at paras 8-9; *Tovar v Canada (Citizenship and Immigration)*, 2016 FC 598 at paras 19-22; *Ismaili v Canada (Citizenship and Immigration)*, 2014 FC 84 [*Ismaili*] at paras 31-42).

[21] First, when they swear to the truth of certain allegations, refugee applicants are presumed to tell the truth (*Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302 (FCA) at para 5). However, this presumption of truthfulness is not unchallengeable, and an applicant's lack of credibility may suffice to rebut it. For example, the presumption is rebuttable where the evidence is inconsistent with the applicant's sworn testimony (*Su v Canada (Citizenship and Immigration)*, 2015 FC 666 at para 11, citing *Adu v Canada (Minister of Employment and Immigration)*, [1995] FCJ No 114 (FCA) (QL)), or where the RPD is unsatisfied with the applicant's explanation for those inconsistencies (*Lin v Canada (Citizenship and Immigration)*, 2010 FC 183 at para 19).

[22] Second, even though they may be insufficient when taken individually or in isolation, the accumulation of contradictions, inconsistencies and omissions regarding crucial elements of a refugee claim can support a negative conclusion about an applicant's credibility (*Sary v Canada (Citizenship and Immigration)*, 2016 FC 178 at para 19; *Quintero Cienfuegos v Canada (Citizenship and Immigration)*, 2009 FC 1262 at para 1). I pause to underscore the well-accepted statement that the RPD is best positioned to assess an applicant's credibility, as it has the benefit of hearing his or her testimony (*Jin v Canada (Citizenship and Immigration)*, 2012 FC 595 at para 10).

[23] Third, the RPD cannot base a negative credibility finding on minor contradictions that are secondary or peripheral to the refugee protection claim. The decision-maker must not conduct a too granular or overzealous analysis of the evidence. In other words, not all inconsistencies or implausibilities will support a negative finding of credibility; such findings should not be based

on a “microscopic” examination of issues irrelevant to the case or peripheral to the claim (*Attakora v Canada (Minister of Employment and Immigration)* (1989), 99 NR 168 (FCA) at para 9; *Cooper v Canada (Citizenship and Immigration)*, 2012 FC 118 [*Cooper*] at para 4).

[24] Fourth, a lack of credibility concerning central elements of a refugee protection claim can extend and trickle down to other elements of the claim (*Sheikh v Canada (Minister of Employment and Immigration)*, [1990] FCJ No 604 (FCA) (QL) at paras 7-8), and be generalized to all of the documentary evidence presented to corroborate a version of the facts. Similarly, it is open to the RPD not to give evidentiary weight to assessments or reports based on underlying elements found not be credible (*Brahim v Canada (Citizenship and Immigration)*, 2015 FC 1215 [*Brahim*] at para 17).

[25] Fifth, credibility findings should not be made based strictly on the absence of corroborative evidence (*Ndjavera v Canada (Citizenship and Immigration)*, 2013 FC 452 [*Ndjavera*] at para 6). However, when there is a valid reason to question a refugee claimant's credibility, further negative credibility inferences can be drawn if the claimant is unable to provide an explanation for the lack of reasonably expected corroborative evidence (*Ndjavera* at para 7). Where corroborative evidence should reasonably be available to establish essential elements of a claim and there is no reasonable explanation for its absence, a decision-maker can draw a negative inference of credibility based on the claimant's lack of effort to obtain such corroborative evidence (*Ismaili* at paras 33, 35).

[26] Finally, the RPD is also entitled to draw conclusions concerning an applicant's credibility based on implausibilities, common sense and rationality. It can reject evidence if it is inconsistent with the probabilities affecting the case as a whole, or where inconsistencies are found in the evidence (*Shahamati v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 415 (FCA) (QL) at para 2; *Mohamed v Canada (Citizenship and Immigration)*, 2015 FC 1379 at para 25; *Yin v Canada (Citizenship and Immigration)*, 2010 FC 544 at para 59; *Lubana* at para 10). A finding of implausibility must however be rational, sensitive to cultural differences and clearly expressed (*Rahal v Canada (Citizenship and Immigration)*, 2012 FC 319 [*Rahal*] at para 44). The RPD's conclusions and inferences on a claimant's credibility must always remain reasonable and the analysis must be formulated in "clear and unmistakable terms" (*Hilo v Canada (Minister of Employment and Immigration)* (1991), 130 NR 236 (FCA) [*Hilo*] at para 6; *Cooper* at para 4; *Lubana* at para 9). Situations where implausibility findings can be made include where the applicant's testimony is outside of the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have taken place as alleged. Conversely, merely casting a "nebulous cloud" over the reliability of the evidence will be insufficient, as the RPD must state why credibility is affected in more than vague and general terms (*Hilo* at para 6).

**B. *The RPD's findings in this case***

[27] I have no hesitation to conclude that these principles were followed in the present case. The RPD identified numerous inconsistencies and contradictions in Ms. Lawani's story. Ms. Lawani was given multiple opportunities to explain them but the RPD was unsatisfied with her explanations and, as a result, found that Ms. Lawani's evidence lacked credibility.

[28] Ms. Lawani's first complains about the order in which her domestic abuse and bisexuality allegations were examined by the RPD. On this point, I find nothing unreasonable in the RPD's choice to examine the bisexuality allegation first. Considerable deference must be given to the manner in which the RPD decides to assess credibility, and it can reasonably decide to examine allegations, arguments, or pieces of evidence in an order different from the one in which they are presented. Furthermore, a review of the RPD's reasons reveals that, without a doubt, both claims advanced by Ms. Lawani were duly assessed by the RPD, and that both raised distinct credibility concerns.

[29] Ms. Lawani's argument concerning bisexuality as a "sur place" claim also has no merits. A "sur place" refugee is an individual who was not a refugee when leaving his or her country of origin, but fears persecution upon return because of circumstances arising in the host country (*Kyambadde v Canada (Citizenship and Immigration)*, 2008 FC 1307 [*Kyambadde*] at para 15). When faced with evidence suggesting that the claimant may be a "sur place" refugee, the RPD must examine if it is the case, even though no "sur place" claim is put forward by the claimant (*Kyambadde* at para 16, citing *Mohajery v Canada (Citizenship and Immigration)*, 2007 FC 185). While there is an obligation to assess the refugee situation, there is no obligation to specifically characterize and name the situation as being a "sur place" claim.

[30] Ms. Lawani also questions the RPD's views regarding her use of the term "bisexual" to define her sexual identity. Ms. Lawani and her counsel take particular exception with the statements made by the panel on this front, which they consider outside the RPD's range of

expertise. I disagree. Contrary to Ms. Lawani's position, I am not persuaded that this is not part of the RPD's expertise.

[31] I accept that determining someone's sexual identity may be a challenging task, but it is one that the RPD regularly performs when sexual orientation forms the basis of a refugee claim (*Osikoya v Canada (Citizenship and Immigration)*, 2018 FC 720 at paras 60-61). The past experience of an administrative tribunal, both as an institution and from the perspective of the specific decision-maker involved, fuels the development of a tribunal's expertise. An administrative tribunal's expertise and experience are the beating heart of the principle of deference underlying the standard of reasonableness, and this is something a reviewing court should always be mindful of on judicial review (*City of Edmonton* at para 33). The deferential approach dictated by the standard of reasonableness thus embodies recognition of the administrative decision-maker's particular expertise and experience in dealing with matters within the boundaries of its functions.

[32] Here, I acknowledge that the panel member could perhaps have been more reserved in displaying and relying on his own past personal experience. In the context of judicial reviews, an administrative tribunal's expertise or experience is not measured against each individual officer's own qualifications, knowledge and background. True, officers always bring their own particular experience and expertise in their respective decision-making, but deference is an acknowledgment of the institutional expertise and experience held by an administrative tribunal (*City of Edmonton* at para 33). It would indeed be strange if the deference to be shown to a decision-maker by a reviewing court were to fluctuate with the identity and specific level of

experience of each particular individual involved, or with the exposure that an individual may have had to the particular issue raised before him or her. The panel member's comments on the source of his expertise were therefore superfluous and unnecessary. I concede that some of the statements regarding Ms. Lawani's sexual orientation could have been more elegantly worded, and may be tip-toeing the sideline of impropriety; but they certainly do not push the decision beyond the boundaries of reasonableness and outside the scope of possible, acceptable outcomes.

[33] I also do not agree with Ms. Lawani's contention that the RPD erred in drawing negative inferences from the late presentation of her bisexuality claim. The RPD has flexibility in examining factors affecting credibility. It did not believe Ms. Lawani's explanation for the last-minute addition of her bisexuality claim, and explained why in great details in its decision, taking into account the fact that Ms. Lawani was in Canada for a long period before her refugee claim was examined by the RPD.

[34] Similarly, I consider that the RPD could reasonably choose not to give any weight to the psychological report, based on its previous negative credibility findings regarding Ms. Lawani's story and the RPD's institutional expertise drawn from other cases. The RPD is entitled not to give evidentiary weight to assessments or reports based on underlying elements it found not to be credible (*Brahim* at para 17).

[35] Turning to Ms. Lawani's complaints about the RPD's negative credibility findings regarding her alleged fear of domestic abuse, it was open to the RPD to doubt certain statements made on Mr. Omoruyi's behaviour because "it is implausible that someone who has learned that



his girlfriend is unfaithful by texting other men would be even more determined to marry that person [...]”. The same goes for the implausibility finding on Mr. Omoruyi not knowing that she was not circumcised; I note that even Ms. Lawani and her mother were themselves surprised by that question when it was asked by Mr. Omoruyi.

[36] I am mindful that caution is required regarding implausibility findings in refugee cases (*Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 9).

Implausibility findings should be made only in the clearest of cases and with showing sensitivity to cultural differences, and the RPD must always sufficiently set out its reasons for making such findings (*Alhaj v Canada (Citizenship and Immigration)*, 2018 FC 98 at para 14; *Rahal* at para 44; *Kiyarath v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1269 at para 22). Otherwise, they can be seen as arbitrary and unreasonable. I am not persuaded that the RPD’s implausibility findings on Ms. Lawani’s claims of domestic abuse fall in that category. On the contrary, the RPD’s assessments were made in clear and unmistakable terms with detailed explanations on why, in the eyes of the panel, Ms. Lawani’s evidence was missing the mark and stood outside the realm of what could reasonably be expected.

[37] In summary, the RPD provided careful, comprehensive and well-considered reasons explaining why Ms. Lawani was not found credible. The test for reasonableness dictates that the reviewing court must start from the decision and the decision-maker’s reasons, with the recognition that the administrative decision-maker has the primary responsibility to make the factual determinations. A judicial review is not a “line-by-line treasure hunt for error” and a reviewing court must instead approach the reasons and outcome of a tribunal’s decision as an

“organic whole” (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 138; *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd.*, 2013 SCC 34 at para 54; *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53). When the RPD’s decision is read as a whole, and not through the piecemeal approach put forward by Ms. Lawani, I am satisfied that the RPD engaged in a thorough and detailed assessment of the evidence, and that its findings are reasonable. The question before the Court is not whether another outcome or interpretation might have been possible. The question is whether the conclusion reached by the decision-maker falls within the range of acceptable, possible outcomes.

#### **IV. Conclusion**

[38] For the foregoing reasons, Ms. Lawani’s application for judicial review is dismissed. I detect nothing irrational or arbitrary in the RPD’s factual findings. I instead find that the RPD’s analysis of Ms. Lawani’s lack of credibility has the required attributes of transparency, justifiability and intelligibility, and is not tainted by any reviewable error. On a standard of reasonableness, it suffices if the decision subject to judicial review falls within the range of acceptable, possible outcomes which are defensible in respect of the facts and the law. This is the case here.

[39] The parties did not raise any serious questions of general importance for certification in their submissions, and I agree that there are none.

**JUDGMENT in IMM-21-18**

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

1. The application for judicial review is dismissed, without costs;
2. No serious question of general importance is certified.

"Denis Gascon"

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Judge

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

**DOCKET:** IMM-21-18

**STYLE OF CAUSE:** PATIENCE LAWANI v THE MINISTER OF  
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**PLACE OF HEARING:** TORONTO, ONTARIO

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