

Federal Court



Cour fédérale

Date: 20220512

Docket: IMM-5083-21

Citation: 2022 FC 713

St. John's, Newfoundland and Labrador, May 12, 2022

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**TAMARISHA NATALEE RIGGS LOPEZ
ROYAN CHRISTOPHER LOPEZ
SASHANIA AMELIA LOPEZ
NATHANIEL OROYAN LOPEZ
ELIZABETH ROYAN LOPEZ**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Tamarisha Natalee Riggs Lopez (the “Principal Applicant”), her husband Mr. Royan Christopher Lopez and their children Ms. Sashania Amelia Lopez, Mr. Nathaniel Oroyan Lopez and Ms. Elizabeth Royan Lopez (collectively, the “Applicants”) seek judicial review of the

decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”), denying their claim for refugee protection, on the basis of credibility and forward-looking risk.

[2] The Applicants are citizens of Jamaica. They claimed protection on the basis of fear of persecution from the Principal Applicant’s former boyfriend.

[3] The RAD focused on a mistake in the name of the agent of persecution in the narrative signed by the Principal Applicant. The Immigration and Refugee Board, Refugee Protection Division (the “RPD”) accepted that Applicants’ explanation that this was an “administrative error” made by Counsel for the Applicants and that the Principal Applicant intended to use another name.

[4] The RAD decided that this error undermined the Applicants’ credibility.

[5] The Applicants argue that the RAD erred in assessing their credibility and also erred in the assessment of forward-looking risk. They submit that “no threats during a five-month period...does not indicate that there will not be threats in the future.”

[6] The Minister of Citizenship and Immigration (the “Respondent”) submits that the RAD reasonably made a negative credibility finding, based upon the wrong identification of the agent of persecution.

[7] The decision of the RAD is reviewable upon the standard of reasonableness, following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.).

[8] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on that decision”; see *Vavilov, supra* at paragraph 99.

[9] The RAD referenced several negative credibility findings made by the RPD. It confirmed those findings. The fact that the RPD considered the misidentification of the alleged agent of persecution to be an “administrative error” does not mean that the RPD failed to consider that fact in making negative credibility findings. Indeed, the reasons of the RPD show that the “administrative error” influenced its negative credibility findings in respect of other evidence presented by the Applicants.

[10] The RAD commented on the finding of the RPD that the misidentification of the alleged agent of persecution undermined the reliability of other parts of the Applicants’ evidence. The RAD agreed with the negative findings of the RPD which were detailed in the reasons of the RPD.

[11] Considering the contents of the Certified Tribunal Record, the written and oral submissions of the parties, and the applicable standard of review, I am not persuaded that the RAD committed any reviewable error in its findings and conclusions.

[12] The decision filed at the hearing by the Applicants, that is *Thamir v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 540, can be distinguished on its facts and does not support the arguments of the Applicants.

[13] In the result, the application for judicial review will be dismissed. There is no question for certification.

JUDGMENT in IMM-5083-21

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5083-21

STYLE OF CAUSE: TAMARISHA NATALEE RIGGS LOPEZ, ROYAN
CHRISTOPHER LOPEZ, SAHANIA AMELIA LOPEZ,
NATHANIEL OROYAN LOPEZ, ELIZABETH
ROYAN LOPEZ v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF ZOOM CONFERENCE CALL
BETWEEN TORONTO, ONTARIO AND ST. JOHN'S,
NEWFOUNDLAND AND LABRADOR

DATE OF HEARING: APRIL 12, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: MAY 12, 2022

APPEARANCES:

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Rachel Hepburn Craig FOR THE RESPONDENT

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