



**Date: 20220901**

**Docket: IMM-3580-21**

**Citation: 2022 FC 1251**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, September 1, 2022**

**PRESENT: Mr. Justice Pamel**

**BETWEEN:**

**PAPA GOUMBO NIANG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The applicant, Papa Goumbo Niang [Mr. Niang], is seeking judicial review of a decision of the Refugee Appeal Division [RAD] dated May 2, 2021, confirming the merits of a decision of the Refugee Protection Division [RPD]. The RPD and the RAD found that Mr. Niang was not

a credible witness and that he was not a Convention refugee or a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[2] For the following reasons, the application for judicial review is dismissed. I am of the view that Mr. Niang did not show any errors in the RAD's reasons that would render the decision unreasonable.

## II. Background

[3] Mr. Niang claims that he became a Jehovah's Witness on December 19, 2015. On July 12, 2017, Mr. Niang, while on a mission for his church with two of his French overseers and friends, was reportedly recognized by a cousin, who told his family. Mr. Niang alleges that, since then, his family and the Mouride sect have threatened his life. In fact, on August 17, 2017, members of the Mouride sect reportedly burned the house in which his two French friends had hidden him. Mr. Niang allegedly left the village and hid in a church until obtaining a Canadian visa. On April 3, 2018, Mr. Niang left Dakar for Montréal and claimed Canada's protection.

[4] The RPD rejected the refugee protection claim after finding that, because of several significant credibility issues regarding Mr. Niang being a Jehovah's Witness, he was not credible. The RPD questioned the appellant about his conversion and his knowledge of the Jehovah's Witness faith. It noted that his answers were vague, evasive and unsatisfactory, and that he had an extremely limited knowledge of this faith.

[5] The RAD agreed with the RPD's concerns about Mr. Niang's credibility. After listening to the recording of Mr. Niang's hearing before the RPD, the RAD concluded that he had given confused testimony about the core elements of his claim even though the RPD had repeated its questions several times and summarized what it needed to understand from his explanations. The RAD concluded that Mr. Niang's confusion and inconsistency could not explain the lack of clear and convincing explanations as to how he converted to the practices of the Jehovah Witness faith even though he testified that he had been a Jehovah's Witness for four years. The RAD found that the RPD, in realizing during the hearing that Mr. Niang had minimal knowledge of the faith that he claimed to have joined, asked him basic questions to ensure the veracity of his claims. Finally, the RAD concluded that the RPD was justified, in view of Mr. Niang's inconsistent and unclear responses, in seriously doubting his credibility.

### III. Issue and standard of review

[6] There is only one issue raised in this application for judicial review: Is the RAD's decision reasonable? The RAD's findings regarding Mr. Niang's credibility must be reviewed on the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 16–17; *Bouarif v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 49 at para 9 [*Bouarif*]).

### IV. RAD's decision not unreasonable

[7] Mr. Niang contends that the RPD and the RAD erred in their findings as to his credibility with respect to the means of his conversion and the practices of the Jehovah's Witness faith. He argues that he should have benefited from the presumption that sworn testimony must be

considered true in the absence of valid reasons to doubt it, citing *Maldonado v Minister of Employment and Immigration*, [1980] 2 FC 302 (CA) [*Maldonado*], and that his explanations were sensible, logical and spontaneous.

[8] With regard to the question of how he converted, Mr. Niang referred to paragraphs 16 and 17 of the RAD's decision, which state:

[16] The RPD questioned the appellant about how he became a Jehovah's Witness. He testified that they had neighbours who were members of the Jehovah's Witnesses church. He went out with them and he then converted to Jehovah's Witnesses.

[17] The RPD asked the appellant many times to explain the process that he had had to undertake to become a member of Jehovah's Witnesses. He initially answered that he became a follower and that family members had been made aware. Then, the appellant testified that he was going out with his two friends who were Jehovah's Witnesses and that that is their job. He saw this and he allegedly joined that religion. Finally, after being asked a third time to explain specifically how he converted, he testified that he was accompanying his friends, who were going to the suburbs.

[9] Mr. Niang notes that the RPD did not specify on what evidence it was relying to conclude that there is a procedure for becoming a Jehovah's Witness. He contends that the RAD's justification, according to which the RPD had questioned him at length about his conversion and found that his explanations were confused and inconsistent, is unreasonable. He submits that the RPD's findings of fact cannot be based on purely hypothetical and theoretical evidence (*Canada (Minister of Employment and Immigration) v Satiacum*, [1989] FCA No. 505 (QL), (1989), 99 NR 171 (FCA) and, relying on *Hassan v Canada (Minister of Citizenship and Immigration)*, [1996] FCA No. 250 (QL), that the RPD could not base its decision on its own assumptions. The

applicant contends that the RAD demanded that he invent a conversion procedure that he did not know.

[10] I cannot agree with Mr. Niang.

[11] As Justice LeBlanc recalled in *Exantus v Canada (Citizenship and Immigration)*, 2015 FC 1118 at paragraph 13, the presumption of veracity of sworn testimony explained in *Maldonado* applies as long as there is no valid reason to doubt a claimant's testimony.

[12] However, as the RAD noted, the RPD dismissed Mr. Niang's testimony as insufficient and not credible on the matter of his conversion, as it found that it was reasonable to believe that a faith such as the Jehovah's Witnesses had a procedure to become a member. The RPD asked open-ended questions that it repeated several times to ensure that Mr. Niang understood and to allow him to explain. However, he was not able to explain that he had followed such a procedure or even that there was one.

[13] Again, as Justice LeBlanc noted in *Cerisier v Canada (Citizenship and Immigration)*, 2016 FC 1315 at paragraph 7, citing *Toma v Canada (Minister of Citizenship and Immigration)*, 2014 FC 121 at paragraph 11, the RPD may make negative findings on the credibility of a refugee protection claimant "based on inconsistencies in testimony and perceived implausibility, so long as they are based on reasonable inference" and thus evaluate a refugee protection claim "on plausibility, common sense and rationality".

[14] Contrary to what Mr. Niang claims, the RAD did not rely on conjectural and theoretical evidence but on the reasonable inference that every religion has a conversion procedure. The RAD found that it was reasonably entitled to satisfactory explanations on his conversion experience and that the applicant should have been able to provide them.

[15] On the whole, I do not see anything unreasonable with the RAD's conclusions on this issue.

[16] Mr. Niang further submits that the RPD's finding that his explanations were inconsistent, repetitive and unconvincing should have taken into account his personality traits and cultural background (*Bains v Canada (Minister of Employment and Immigration)* (1993), 63 FTR 312 (FCTD) [*Bains*]). Mr. Niang alleges that he is illiterate, shy and has little knowledge of French. In that context, Mr. Niang submits that he provided credible testimony and explanations consistent with his level of education. Finally, Mr. Niang contends that this argument was made before the RAD and that it did not take this into account in its decision.

[17] In my view, Justice Cullen's reasons in *Bains* offer no support to Mr. Niang's argument. In that case, the Federal Court had considered the applicant's argument that his conduct as presented in his testimony should not be judged according to Western standards. The Court then pointed out that it was not really in a position to comment on the applicant's conduct, except to assume that if the RPD had applied Western standards to reach its conclusions, that same conduct could well have been viewed negatively. Therefore, it was a question of the applicant's

conduct at the time of the hearing, as in this case, but his conduct at the time of the facts related in his testimony.

[18] It is, however, true that the RAD's decision is silent on Mr. Niang's personal characteristics and their potential impact on the way that he testified. Nonetheless, I cannot support Mr. Niang's argument. This Court has already established that a claimant alleging persecution because of his or her religious beliefs must be able to establish basic knowledge relating to this religious belief (*Bouarif* at para 10). Although I accept that it is plausible that Mr. Niang's lack of formal education is the reason for his showing limited knowledge about the Jehovah's Witness faith, this argument fails to explain his inability to recount his own experience convincingly. After reviewing the transcript, there is no indication that Mr. Niang's level of French prevented him from understanding the questions asked of him. He also gave entirely consistent and substantial answers on other aspects of his claim. However, he was never able to answer the question of his conversion in a precise and consistent manner.

[19] In my view, Mr. Niang's lack of a satisfactory explanation in this regard is decisive and confirms the RPD's and the RAD's concerns about his credibility. Furthermore, since Mr. Niang's argument here is essentially the same as the one presented before the RAD, I am of the view that the RAD did not err in not specifically addressing it in its decision.

[20] Mr. Niang's arguments do not reveal any reviewable errors. The RAD gave detailed reasons for its findings regarding Mr. Niang's credibility, and I find its decision was reasonable.

V. Conclusion

[21] I will dismiss the application for judicial review.



**JUDGMENT in IMM-3580-21**

**THIS COURT ORDERS as follows:**

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

“Peter G. Pamel”

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Judge

Certified true translation  
Michael Palles

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

**DOCKET:** IMM-3580-21

**STYLE OF CAUSE:** PAPA GOUMBO NIANG v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HEARD BY VIDEOCONFERENCE

**DATE OF HEARING:** AUGUST 22, 2022

**JUDGMENT AND REASONS:** PAMEL J.

**DATED:** SEPTEMBER 1, 2022

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