

Federal Court



Cour fédérale

Date: 20220921

Docket: IMM-5773-21

Citation: 2022 FC 1309

Ottawa, Ontario, September 21, 2022

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

**DALWINDER SINGH
LAKHVIR KAUR
ARMAANPREET SINGH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is the application for judicial review of the July 26, 2021 decision of the Refugee Appeal Board [RAD] of the Immigration and Refugee Board of Canada dismissing the Applicant's appeal of the decision of the Refugee Protection Division [RPD] which found that the Applicants are not Convention refugees or persons in need of protection under s 96 and s 97, respectively, of the *Immigration and Refugee Protection Act* [IRPA].

Background

[2] The Applicants are a family, Dalwinder Singh [Principal Applicant], his spouse Lakhvir Kaur [Spouse] and their son, Armaanpreet Singh. They are citizens of India.

[3] The Principal Applicant claims that he ran his own hardware business in his village in Punjab, India and that he has also been a member of the Shiromani Akali Dal Amritsar [SAD-A] political party since December 2015. He claims he was also involved in running the local Gurudwara and became its general secretary in 2013. The Principal Applicant claims that the rival Congress political party warned him to stop influencing the voting of people who attended the Gurudwara, but that he did not comply. The Principal Applicant also claims that he did not allow the Congress party members to organize their political conference inside the Gurudwara.

[4] In 2017, the Congress party won elections. Their leader was permitted to sit on the Gurudwara stage but the Principal Applicant claims that he refused to allow other Congress members on the stage with him. They were angered by this and he was attacked on his way home that night by Congress workers who also damaged his car. In 2018, the Principal Applicant again campaigned for the SAD-A and some of its candidates were successful. The Principal Applicant claims that after that election he refused the request of Congress party members to try to convince his party workers to join the Congress party and that he was attacked and beaten and his hardware shop damaged. The Principal Applicant claims that he also worked to support his party running in 2019 elections, angering Congress workers. Soon after the 2019 elections, the police arrested the Principal Applicant claiming that he ran a drug racket. He claims he was

tortured for two days and released when his family members paid a bribe to the police. He attributes the actions of the police to the Congress party.

[5] The Principal Applicant claims that he then went into hiding and hired an agent to obtain a visa for him and his family to come to Canada. They arrived here in September 2019.

[6] By decision dated November 26, 2020, the RPD rejected the Applicants' claim for refugee protection due to multiple credibility concerns with the Principal Applicant's testimony and evidence, a lack of reasonably expected corroborative evidence, and delay in claiming refugee protection. The Applicants appealed the decision to the RAD.

Decision Under Review

[7] The RAD agreed that the RPD had focused on some minor or peripheral matters in their credibility assessment. The RAD also agreed that the RPD had applied some Western standards and made some assumptions when not accepting the Principal Applicant's explanation for his lack of receipts for the repair of the alleged damage to his car and to his shop. The RAD therefore accepted the Applicants' new evidence addressing these specific concerns but found that the errors made by the RPD were not fatal to the outcome of the claims. There were other factors, which the RAD addressed, to support their dismissal. In that regard, the RAD upheld credibility concerns found by the RPD concerning the Principal Applicant's alleged SAD-A membership and agreed with the RPD that the Applicants had failed to provide sufficient evidence to support their claims and had failed to provide reasonably expected corroborative evidence.

Issue and Standard of Review

[8] The sole issue in this matter is whether the RAD's decision was reasonable.

[9] The parties submit, and I agree, that in assessing the merits of the RAD's decision, there is a presumption that the reviewing court should apply the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 16, 23, 25). Applying that standard, the reviewing court asks whether the decision 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 the decision (*Vavilov* at para 99).

Analysis

SAD-A Membership Card

[10] The RAD found that there was insufficient evidence that the Principal Applicant was a member of the SAD-A party.

[11] The Applicant provided a copy of only the front of his membership card. This had a space for the Principal Applicant's name, which was written in by hand, but the space for his signature was blank. The RAD noted that the RPD had been concerned that there was no date on the card and when it had questioned the Principal Applicant about this he stated that membership cards do not contain any date for security reasons to protect members. The RAD noted that the

Applicants argued that the membership card was consistent with the description in the NDP. The RAD disagreed.

[12] It found that while the front of the card was consistent, the Principal Applicant's statement about the date was not. The document in the NDP that the Principal Applicant referred to stated that the back of the card contains an identification number, the name of the issuing authority and the date of issue. The RAD drew a negative credibility inference based on the Principal Applicant's testimony that membership cards do not have a date for security reasons and the fact that the back of the card was not provided. The RAD found on a balance of probabilities that the card was not genuine.

[13] The RAD referred to the Response to Information Request [RIR], IND103258.FE, dated October 15, 2009, item 4.5, the subject of which is whether SAD-A issues membership cards and the detailed description of the cards. This document was included in the July 17, 2020 NDP. This RIR states that a representative at the Consulate General of Canada in Chandigarh, India, provided samples of membership cards issued by the SAD-A. The look of the cards was changing from one of the sample cards attached to the other, both were attached to the RIR. The RIR describes the membership cards including that the back of both of the cards provide space for the address, identification number and date of issue as well as the name of the issuing authority. The Applicants assert that "the reliability of this particular source in the NDP is questionable". The Applicant's only basis of challenging the reliability of the source is that it is unclear where the Consulate obtained this information. When appearing before me, counsel for the Applicants also submitted that because the RIR indicated that the cards were changing that

this also reflected their unreliability. I note, however, that RIR explicitly recognized this and that samples of both the old and new cards were attached to the RIR. The Applicants point to no evidence establishing that the RIR information is incorrect or inaccurate.

[14] In fact, the Applicants also submit that the front of the card is consistent with the objective evidence found in NDP – despite their assertion that the information in the RIR was unreliable – but that “[a]s the back of the card was not provided, it cannot be inconsistent with the NDP”. The Applicants submit that the RAD cannot impugn the Principal Applicant’s credibility where the evidence of the back page was not produced and, therefore, it was not inconsistent with the Principal Applicant’s testimony.

[15] There is no merit to this position. As the Respondent submits, the Principal Applicant’s testimony concerning card dates was inconsistent with the objective NDP evidence and there was no explanation as to why he produced only the front of the membership card. The evidentiary onus was on the Principal Applicant to establish the material aspects of his claim – his membership in the SAD-A was the foundation of his claim.

[16] Further, to suggest that the RAD could not draw a negative credibility finding because the Principal Applicant chose not to submit the back of the membership card before the RPD would mean that any claimant could chose, without valid explanation, to omit those portions of documents that support their claim but that may be inconsistent with the objective documentary evidence and then assert that their choice to do so means that negative credibility inferences cannot be drawn and that the document must be accepted as genuine. Clearly, that cannot be.

[17] I also do not agree with the Applicants' submission that the RAD's concern with the lack of a date was an unreasonably microscopic analysis. The RAD was concerned with the fact that the Principal Applicant's testimony about the existence of a date on the card was inconsistent with the objective evidence and that the back of the card, without explanation, had not been produced. As recognized by the RAD, the genuineness of the membership card was central to the Applicants' claim.

[18] In my view, the RAD reasonably found that on the balance of probabilities the membership card was not genuine.

Corroborating evidence

[19] The RAD acknowledged that there is a presumption of truthfulness of sworn statements of claimants. However, it stated that the presumption of truthfulness applies to the credibility of facts alleged in sworn statements, but not to their trustworthiness (referencing *Kallab v Canada (Citizenship and Immigration)*, 2019 FC 709). Credible evidence must also be shown to be trustworthy, usually through corroboration. The RAD stated that the presumption of truthfulness does not excuse a claimant from making genuine effort to provide corroborative evidence to establish the trustworthiness of their sworn statements and that this is required by s 170(h) of the *IRPA* as well as Rule 11 of the *Refugee Protection Division Rules*, SOR/2012-256. The RPD had noted that the presumption of truthfulness operates, in part, in recognition of the situations where it would be very difficult for some claimants fleeing their home country to obtain corroboration or documentation. However, that this was not the situation in this matter. Further, that credibility concerns such as the issue with the Principal Applicant's membership card justified the

requirement for corroborative evidence. The RAD found that the Principal Applicant's alleged membership in the SAD-A party was the heart of the claim as it is the alleged basis for persecution. It was not a minor or peripheral credibility concern.

[20] The RAD also found that the new evidence concerning a cash economy in India and the common practice of paying in cash and not receiving receipts reasonably explained the lack of receipts for the repair of the alleged damage to the car and the hardware store. However, the RAD agreed with the RPD's negative inference regarding the Principal Applicant's failure to provide the photographs that he testified he had taken of the damage to his car but that he did not produce. And, while the new evidence concerning the inconsistent practice regarding medical records in India, particularly in small local clinics, reasonably explained why there were no medical records from the small private clinic that the Principal Applicant claimed that he visited, this did not explain the lack of medical records from the hospital he claimed he had been admitted to for seven days due to his injuries after his alleged detention and torture by the police.

[21] The RAD noted that, at the hearing before the RPD, the Principal Applicant testified he had tried to get the hospital records but could not because it was a testing and treatment centre for COVID-19. The RAD did not accept as reasonable that the Principal Applicant was not able to get the hospital records from when his claim was filed in December 2019 to when it was heard in November 2020. Further, that it was unreasonable that he did not ask his father to try to get the hospital records until a few weeks before the RPD hearing. The RAD noted that the hospital records were also not produced as new evidence at the appeal before it and that there was no record that the Principal Applicant had even made a request to the hospital for documentation.

[22] Further, the Principal Applicant lived with his parents in India. He claimed that they were very involved in the alleged events including attempting to file a police report about an assault on the Principal Applicant by Congress party members, paying a bribe to effect his release from police detention and arranging for him to be treated in hospital for his injuries. However, the Principal Applicant's parents provided no supporting documentation to corroborate those events and no explanation was provided by the Principal Applicant for the lack of such documents. The RAD drew a negative credibility inference about these alleged events due to the lack of corroboration from his parents, who allegedly had direct involvement.

[23] And, while the Principal Applicant claimed that he had written a letter of complaint to the Deputy Commissioner of Police about the failure to take a report of his attack by Congress party members, the Principal Applicant stated that he did not keep a copy of the complaint. The RAD found that there was therefore no corroboration of the Principal Applicant's bald statement that he made a complaint. Similarly, there was no corroboration of his bald statement that he went into hiding after he was detained by the police nor of his statement that the police continue to look for him.

[24] The RAD noted that the only corroborating evidence the Principal Applicant provided were two letters from SAD-A party leaders. These letters spoke in general terms about the persecution of Sikhs in Punjab state and conclude that it is likely that the Principal Applicant would be persecuted by the state if he returned to India. The RAD noted that the RPD gave these letters no weight. The RAD disagreed with the Applicants' submission that the RPD erred by overlooking this evidence which the Applicants claimed was very probative. The RAD found

that the letters did not overcome its credibility concerns and the complete lack of corroborating evidence of the central elements of the Applicants' claim. The authors of the letters had no direct knowledge of the events that the Principal Applicant alleged occurred. The RAD also did not accept the letters as sufficient evidence of the Principal Applicant's membership in the SAD-A party given the concerns with the membership card.

[25] The RAD concluded that the Applicants had not provided sufficient evidence to support their claim and there was a lack of a reasonable explanation for this.

[26] The law concerning sworn statements of claimants and corroborating evidence has been restated many times, I did so in *Luo v Canada (Citizenship and Immigration)*, 2019 FC 823:

[18] The second point concerns credibility and corroborative evidence. This is an issue that has been addressed many times by this Court, including my decision in *Ismaili* (at paras 31-55), Justice Kane's decision in *Guyen* (at paras 35-38), and the jurisprudence cited in those decisions. In short, it is beyond dispute that the onus is always on the claimant to prove his or her claim (*Ismaili* at para 32; *Samseen v Canada (Citizenship and Immigration)*, 2006 FC 542). This is also reflected in Rule 11 of the *Refugee Protection Division Rules*, SOR/2112-256, which states that claimants must provide acceptable documents establishing their identity and other elements of their claims and, if they do not, they must explain why the documents were not provided and what steps they took to obtain them.

[19] However, when a refugee claimant swears to the truth of certain allegations, there is a presumption that those allegations are true unless there is a reason to doubt their truthfulness (*Maldonado v Canada (Employment and Immigration)*, [1980] 2 FC 302 (FCA) [*Maldonado*]; also see *He v Canada (Citizenship and Immigration)*, 2019 FC 2 at paras 22-25 [*He*]). This is because, for example, a refugee may have been forced to flee their home on little or no notice, taking little or nothing with them, and such circumstances of flight render it impossible or unreasonable to expect them to provide supporting documentary evidence. Thus,

there is no general requirement that a claimant provide corroborating documents.

[20] Accordingly, it has been held that it is an error to make an adverse credibility finding solely on the basis of the absence of corroborative evidence (*He* at paras 22, 24; *Guyen* at para 37; and *Ismaili* at para 53). However, where there is a valid reason to doubt the claimant's credibility or where the claimant's story is implausible, the lack of documentary evidence can be a valid consideration for the purposes of assessing credibility if the applicant is unable to provide a reasonable explanation for the lack of corroborative evidence (*Guyen* at para 38; *Ismaili* at para 36). The RPD is entitled to take into account a claimant's lack of effort to obtain corroborative evidence to establish the elements of their claim and to draw a negative inference from this (*Ismaili* at para 33).

[21] Other jurisprudence has found that there is an exception to, or distinction from, the *Maldonado* principle of truthfulness in that a decision-maker may draw an adverse inference regarding a claimant's testimony if he or she fails to produce evidence that the decision-maker reasonably expects should be available in the claimant's circumstances, and the claimant does not provide a reasonable explanation for failing to produce that evidence (*Murugesu v Canada (Citizenship and Immigration)*, 2016 FC 819 at para 30; *Radics v Canada (Citizenship and Immigration)*, 2014 FC 110 at paras 30-32 [*Radics*]; also see *Tellez Picon v Canada (Citizenship and Immigration)*, 2010 FC 129 at para 12; *Ryan v Canada (Citizenship and Immigration)*, 2012 FC 816 at para 19; *Rojas v Canada (Citizenship and Immigration)*, 2011 FC 849 at para 6 [*Rojas*]; *Ding v Canada (Citizenship and Immigration)*, 2014 FC 820 at para 15; *Lakatos v Canada (Citizenship and Immigration)*, 2014 FC 785 at para 26; *Mowloughi v Canada (Citizenship and Immigration)*, 2019 FC 270 at para 65; *Delosevic v Canada (Citizenship and Immigration)*, 2012 FC 831 at para 14; *Jin v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 359 at para 28). That is, a failure to provide corroborating documentation is only a proper consideration for the decision-maker, in this case the RPD, where there are valid reasons to doubt a claimant's credibility, or, where the decision-maker does not accept the claimant's explanation for failing to produce documentary evidence when it would be reasonably expected to be available (*Radics* at para 30). In that circumstance, "precision was required as to the nature of the documentation expected and a finding made to that effect" (*Rojas* at para 6).

[22] Whether corroborative evidence can reasonably be demanded depends upon the facts of each case (*Lopera v Canada (Citizenship and Immigration)*, 2011 FC 653 at para 31).

(see also *Janvier v Canada (Citizenship and Immigration)*, 2020 FC 142 at paras 27 – 30; *Lawani v. Canada (MCI)*, 2018 FC 924 at para 20 – 26).

[27] In this matter, the Applicants submit that the RAD made internally contradictory findings concerning the lack of corroborative evidence. I do not agree with that submission or the Applicants' further assertion that the RAD accepted that the RPD was microscopic and overzealous in its search for credibility and plausibility issues. Rather, based on the new evidence that the RAD accepted on appeal, it agreed that the RPD applied some Western standards. The RAD also agreed that the RPD had made some assumptions when not accepting the Principal Applicant's explanation for his lack of receipts for the repair to the alleged damage to his car and hardware shop as well as records from the small medical clinic he claimed he attended. The RAD also found that the RPD did focus on some minor or peripheral matters in its credibility assessment, such as a discrepancy in his spouse's post secondary degree. However, the RAD found that these errors were not fatal to the outcome of the claims for the reasons it set out. Notably the lack of credibility of the Principal Applicant and his failure to provide, without reasonable explanation, corroborating evidence.

[28] And, contrary to the Applicants' submission, the RAD did not err in finding that the new evidence established a reasonable explanation for the lack of repair receipts for the car and hardware shop, but by still drawing a negative inference from the fact that the Principal Applicant testified that he had photographs of the car damage but failed to submit them.

Similarly, while the new evidence explained why medical records from the small clinic might not have been available, the RAD did not err in refusing to accept the Principal Applicant's explanation for why he had not produced the records from the hospital he claimed to have been admitted to for 7 days.

[29] As the Respondent submits, in *Janvier v. Canada (Citizenship and Immigration)*, 2020 FC 142 [*Janvier*], this Court rejected a submission that the RAD's determination was contradictory because it recognized some errors in the RPD's reasoning and substituted its own findings, while still upholding the overall decision based on negative credibility findings. Such an analysis was found to be reasonable as the overturned RPD errors were not central or fundamental to the overall logic of the decision and a holistic analysis of the RAD decision highlighted that its overall conclusions were rational and inherently consistent (*Janvier* at paras 27, 36-40 citing *Huruglica* at para 103). I agree with the Respondent that this is a similar circumstance.

[30] The Applicants also take issue with the RAD's use of the term "bald statements" about the Principal Applicant's assertions as to the existence of the complaint to the police and that the police continue to look for him. They assert that this ignores the *Maldonado* principle that the sworn testimony of a claimant is to be accepted as true, unless there is a reason for suggesting otherwise. While I agree that the terminology used by the RAD may not have been ideal, the point was that the subject statements were uncorroborated. And, the fact remains that the RAD found that the Principal Applicant's testimony about the membership card was contradicted by

the objective documentary evidence. Thus, there was justification for seeking corroborating evidence, which the Principal Applicant did not provide.

[31] Finally, the Principal Applicant submits that the RAD conducted no specific analysis of the two letters allegedly from the SAD-A. While they had submitted that the weight of the letters was to be highlighted they submit that the “RAD circumvented the letters” and simply did not accept these letters as sufficient evidence of the Principal’s Applicant’s SAD-A membership.

[32] In my view, the Applicants simply would prefer that the RAD had weighed this evidence differently. However, the RAD explained why the letters did not overcome its credibility concerns. In that regard, I note that the October 27, 2020 letter states that the Principal Applicant has been a member of SAD-A since December 2015, that if he returns to India he will be persecuted by the state and that he was the subject of a false criminal case. The letter does not speak to the role the Principal Applicant played the SAD-A, his position held or of the alleged assaults or the specifics of the alleged false criminal case. The remaining 24 pages of the letter recite newspaper extracts, a letter to members of European parliament of various countries and various other general information with no further reference to the Principal Applicant. It purports to be signed by the president of SAD-A and, as noted by the RAD, oddly and inexplicably adds “P.S. Please ensure that this letter is not bogus and does not bare my signatures”.

[33] The second letter, of the same date, purports to be from the SAD-A general secretary. It too states that the Principal Applicant has been a member since December 2015. Further, that his party responsibilities were to put up posters, participate in rallies and to help in blood donation

and eye examination camps. The letter also states that to the party's knowledge, the Principal Applicant was harassed and ill-treated by the opposition political party and departed for "CANADA" to avoid future harm. Further, that party members are common targets of state tyranny and concluding that the Principal Applicant "should be given political protection as per the US Human Rights Laws in accordance with the U.N. Charter". As the RAD found, these letters do not address the events that ground the basis of the Applicants' claims, while friends and family of the Applicants who were allegedly directly involved in and present for certain events provided no corroborating evidence. In my view, given their limited relevant content, the RAD also reasonably found that the letters were not sufficient to overcome the concerns with the Principal Applicant's membership card.

[34] And, as the Respondent submits, the RAD was entitled to move directly to assessing the weight or probative value of the letters without first assessing their credibility (see *Ferguson v. Canada (Citizenship and Immigration)*, 2008 FC 1067 at para 26). This does not give rise to a reviewable error.

Risk profile

[35] The RAD found that although the NDP provided some support for the Principal Applicant's allegation of threats based on his political opinion, he did not hold a prominent position in the party, he was simply a member and his actions did not fit the profile of an activist. Further, that the SAD-A party's declining support and failure to secure seats in elections for years was inconsistent with the Principal Applicant's allegation that his membership in the party would cause concern or make him a threat to the Congress party members or leaders. Given this,

the RAD found that there was justification for the requirement of corroboration of the Principal Applicant's allegations.

[36] The Applicants assert that by this finding, the RAD erred in speculating as to the motivation of the Principal Applicant's agent of persecution. Further, that in his Basis of Claim [BOC] narrative, the Principal Applicant stated that he "took part in every protest and agitation organized by his party" and supported his party and its candidates which drew the attention of the Congress party who then threatened him and attacked him. The Applicant argues that the RAD's finding that he was "simply a member" is a serious understatement.

[37] I agree with the Applicants that the RAD may not speculate as to the motives, means and future intentions of an agent of persecution (*Builes v Canada (Citizenship and Immigration)*, 2016 FC 215 at para 17). However, I am not convinced that the RAD did so in this matter.

[38] The RAD reviewed the current NDP materials and accurately described reported information as to the SAD-A's current status and its interactions with other political parties and the state. The RAD also acknowledged that the NDP provided some support for the Principal Applicant's allegation of threats based on his political opinion. However, the RAD found that the Principal Applicant did not hold a prominent position in the SAD-A party or fit the profile of an activist. While the Principal Applicant does not agree, nor does he point to any evidence to the contrary – other than his narrative assertion – or even indicate what position he held in the party, other than as a party worker. In that regard, I note that the two letters from the SAD-A that the Applicants submitted in support of their claim do not support that the Principal Applicant held a

leadership or activist role within the party. In my view, the RAD reasonably concluded, based on the objective documentary evidence, that membership in the SAD-A party was alone not sufficient to establish his claim that he would be at risk from his alleged agent of persecution should he return to India.

[39] The RAD also found that the diminished status of the SAD-A party was inconsistent with the Principal Applicant's claim that his SAD-A membership would put him at risk from the Congress party. The Applicants do not contest this or point to any evidence that, despite the SAD-A being reduced to a "somewhat marginal" political party – and therefore no longer a significant political rival to the Congress party – that the Congress party would still have the motivation to seek out the Principal Applicant based on his past support of the SAD-A party and its then candidates. Nor did they provide any corroborating evidence that the Congress party has looked for the Principal Applicant since his departure from India.

[40] The Principal Applicant also asserts that the RAD failed to consider his perceived political opinion by the Congress party. However, the RAD did consider the Principal Applicant's actual political opinion which, based on his allegations, was known to the Congress party and the RAD also considered if the alleged persecutor would still perceive the Principal Applicant as a threat today. It is unclear to me how an error arises in this regard.

Delay

[41] The RAD agreed with the Applicants that the three-month delay between when they arrived in Canada and when they made their claim for refugee protection was not substantial and,

on its own, was insufficient to support a negative credibility inference regarding the Applicants' subjective fear or their credibility. That said, the RAD also noted that while in Vancouver the Principal Applicant contacted an immigration consultant to inquire about obtaining a work permit and was told he was not eligible. The RAD stated that it was difficult to understand how the Principal Applicant was able to make this inquiry but not able to make inquiry about seeking protection. His actions were not consistent with those of a person who fears for their life if they have to return to India and were more consistent with the actions of someone who wants to remain in Canada for economic or other reasons.

[42] The Applicants assert that this finding did not lead to any explicit credibility finding or finding on subjective fear and it is unclear if the RAD drew a negative inference. Further, that the comment on the Principal Applicant's actions is a bald conclusion without any supporting evidence.

[43] In my view, nothing turns on the issue of delay. The RAD clearly stated that the delay on its own was insufficient to support a negative credibility inference and the remainder of its statements amount only to observation, albeit squarely based on common sense.

Conclusion

[44] As stated by Justice Rochester in *Ali v Canada (Citizenship and Immigration)*, 2022 FC 1207 (at para 26):

Credibility determinations are part of the fact-finding process, and are afforded significant deference upon review (*Fageir v Canada (Citizenship and Immigration)*, 2021 FC 966 at para 29 [*Fageir*]; *Tran*

v Canada (Citizenship and Immigration), 2021 FC 721 at para 35 [*Tran*]; *Azenabor v Canada (Citizenship and Immigration)*, 2020 FC 1160 at para 6). Such determinations by the RPD and the RAD demand a high level of judicial deference and should only be overturned “in the clearest of cases” (*Liang v Canada (Citizenship and Immigration)*, 2020 FC 720 at para 12 [*Liang*]). Credibility determinations have been described as lying within “the heartland of the discretion of triers of fact [...] and cannot be overturned unless they are perverse, capricious or made without regard to the evidence” (*Fageir* at para 29; *Tran* at para 35; *Edmond v Canada (Citizenship and Immigration)*, 2017 FC 644 at para 22, citing *Gong v Canada (Citizenship and Immigration)*, 2017 FC 165 at para 9).

[45] In my view, based on the record before it, the RAD’s credibility findings were reasonable and there is no basis for the Court’s intervention.

JUDGMENT IN IMM-5773-21

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed;
2. There shall be no order as to costs; and
3. No question of general importance for certification was proposed or arises.

"Cecily Y. Strickland"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5773-21

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