

Federal Court



Cour fédérale

Date: 20221201

Docket: IMM-8158-21

Citation: 2022 FC 1651

[ENGLISH TRANSLATION]

Ottawa, Ontario, December 1, 2022

PRESENT: Madam Justice Walker

BETWEEN:

FLORIANE PAYO NGANDEU

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant, Floriane Ngandeu, is applying for judicial review of a decision by the Refugee Appeal Division (RAD) dated October 14, 2021, rejecting her refugee protection claim. Like the Refugee Protection Division (RPD), the RAD concluded that the applicant was not credible and that the documents filed in evidence on the Cameroonian authorities' alleged search for her were not authentic.

I. Background

[2] The applicant is a citizen of Cameroon. She fears being arrested, tortured and killed by the authorities should she return to her country because of her imputed political opinions.

[3] In short, the applicant alleges that she was arrested by the police when she was covering an anti-government demonstration in Yaoundé as a journalist on January 26, 2019. Two days later, the police came to her home with a summons, but she was not there. The applicant therefore stopped working and took refuge with a friend in the suburbs of Yaoundé. The police returned to her home on three other occasions and issued a second summons on February 7, 2019.

[4] On June 7, 2019, the applicant left Cameroon for the United States. A month later, she entered Canada and claimed refugee protection.

[5] On June 2, 2021, the RPD rejected the applicant's claim for refugee protection on the ground that she lacked credibility. Although the applicant established that she was a journalist in Cameroon, the RPD concluded that she did not have the profile of a journalist who, through her writing or reporting, could be a target for the Cameroonian authorities or that she would be sought for that reason.

II. RAD's decision

[6] The RAD confirmed the RPD's finding that the applicant was not generally credible regarding the core of her refugee protection claim. The RAD found that several of the applicant's

arguments failed to meet her obligation to make full and detailed submissions. However, the RAD dealt with the clearest arguments, those that appear to emerge from the appeal memorandum.

[7] The RAD therefore addressed two determinative issues: credibility and the issue of whether the applicant has established a prospective fear or risk. Its determinative conclusions are as follows:

1. The fact that the RPD stated it was satisfied that the applicant was a journalist based on the documents submitted without mentioning the testimonial evidence to the same effect does not show that the RPD erred.
2. The applicant does not mention events prior to 2019 in her Basis of Claim Form. However, at the hearing, she testified that in 2012 she was pulled aside by police during a political report. Although the applicant maintains that these events are not significant and did not motivate her departure and fear of returning to Cameroon, these are significant omissions and contradictions that diminish her credibility.
3. The RPD correctly concluded that the applicant did not establish a well-founded prospective fear. The documentary evidence does not show that the mere fact of being a journalist is sufficient to have a well-founded fear of persecution in Cameroon because of imputed political opinion. The applicant's presence in the vicinity of a demonstration in 2019 is insufficient to establish that opinions contrary to the regime have been imputed to her.
4. The documents filed by the applicant have no probative value in light of all their characteristics.
5. The applicant has not established, on a balance of probabilities, that she made political statements on Cameroonian radio from Canada in 2020 that were brought to the attention of Cameroonian authorities.

III. Analysis

[8] The applicant raises a number of arguments, claiming that the RAD's decision is unreasonable. In addition, the applicant argued in her memorandum that the RAD breached her

right to procedural fairness by failing to consider all of her arguments raised on appeal. At the hearing before the Court, the applicant stated that I should consider this argument more carefully in my assessment of the reasonableness of the decision under review.

[9] The standard of review applicable to RAD decisions on credibility and the assessment of evidence is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 23 (*Vavilov*); *Chukwunyere v Canada (Citizenship and Immigration)*, 2021 FC 210 at paras 4–5).

[10] Where the standard of reasonableness applies, the Court focuses on “the decision actually made by the decision maker, including both the decision maker’s reasoning process and the outcome” (*Vavilov* at para 83). Close attention must be paid to a decision maker’s written reasons, and they must be read holistically and contextually (*Vavilov* at para 97). Review of a decision is also not a line-by-line treasure hunt for error (*Vavilov* at para 102). The Court must ask “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).

[11] After reviewing the decision and the record, I cannot agree with the applicant’s arguments.

[12] The applicant first submits that the RAD unreasonably refused to address all of her arguments on the basis that her memorandum and arguments did not meet the requirements of

paragraph 3(3)(g) of the *RAD Rules*, SOR/2012-257. According to the applicant, her arguments were clear and referred to the errors made by the RPD. In addition, she criticizes the RAD for failing to specify where the problems with her arguments lie.

[13] At the start of its analysis, the RAD noted that the arguments presented by the applicant were not always clear. The applicant reproduced some passages from the RPD's decision, the documentary evidence and the jurisprudence, but the links between the passages cited and the alleged errors were not always identified. Nevertheless, the RAD reiterated the applicant's clearest arguments and dealt with them in a detailed and meticulous manner. The onus was on the applicant to demonstrate sufficiently serious shortcomings in the reasons that render the decision unreasonable (*Vavilov* at para 100), and she did not do so. She does not identify any examples of an important element of her arguments that the RAD ignored.

[14] The applicant also submits that the RAD erred in finding that her failure to mention the difficulties she had had as a journalist before 2019 diminished her credibility and contradicted her testimony.

[15] The RAD noted the applicant's testimony that in 2012 she was pulled aside by the police during a political report, held for several hours and threatened before being released. She was traumatized by these events. I find that the RAD reasonably concluded that these events were significant as they were relevant to her persecution because of her occupation as a journalist:

Although [the applicant] insists that these are not significant events that spurred her departure and her fear of returning to Cameroon, I am of the opinion to the contrary, that they are significant omissions and contradictions for a number of reasons. This event

may serve to establish that her type of journalism had been unacceptable to political authorities for a number of years, and the fact that she was already on the police's radar seven years ago could provide stronger motivation to persecute her after the 2019 incident.

[16] The failure to mention her experiences in her Basis of Claim form, in addition to contradicting her argument that she had never had trouble before 2019, diminishes her credibility (*Occilus v Canada (Citizenship and Immigration)*, 2020 FC 374 at para 25). I see nothing unreasonable in the RAD's reasons in light of all the circumstances of this case.

[17] The applicant then challenges the RAD's finding that the mere fact of being a journalist in Cameroon is not sufficient to demonstrate a well-founded fear of persecution.

[18] The RAD found that the applicant had to establish a particular profile that would lead the Cameroonian authorities to view her opinions as being contrary to the regime. According to the documentary evidence, journalists who are targeted by the state are journalists who support separation and those who criticize the state management of the language crisis. However, the applicant refers to a report in the National Documentation Package that journalists censor themselves and do not report on the issue of federalism or on any issues considered to be unfavorable to the regime. With respect, I find that this report does not contradict the RAD's conclusion. It was open to the RAD to find that the mere fact that the applicant is a journalist is not sufficient to have a well-founded fear of persecution because of imputed political opinions. She had to establish that some of her articles could be considered as demonstrating political opinions contrary to the authorities.

[19] The applicant submits that the RAD erred in its analysis of the statements about the language crisis in Cameroon that she made on Cameroonian radio while she was in Canada, but I find that this argument essentially constitutes an invitation to reassess the evidence. Although the applicant does not agree with the RAD's findings, it is not for this Court to reassess and reweigh the evidence to reach a conclusion that would be favorable to her (*Vavilov* at para 125).

[20] Even assuming that the document ("Message Radio Porte") that recounts her statements is authentic, the RAD noted that the applicant had to establish that the statements would become known to the authorities and that the statements were brought to their attention (*Woldemichael v Canada (Citizenship and Immigration)*, 2020 FC 655 at para 33). However, the RAD finds that there is no indication in the evidence that the authorities were aware of her remarks. In my view, the applicant's arguments against this conclusion are not persuasive.

[21] As for the other evidence filed in support of the refugee protection claim, the RAD identified several problems that reduced the probative value of the [TRANSLATION] "Letter[s] of Summons". It considered all aspects of these documents and listed the errors and differences between the summons filed and the template attached to the documentary evidence (*Mao v Canada (Citizenship and Immigration)*, 2020 FC 542 at para 34). The applicant did not identify a reviewable error in the RAD's analysis.

[22] In conclusion, the RAD's decision is justified in relation to the legal and factual constraints to which it was subject. The applicant has not demonstrated that the decision is unreasonable, and the application for judicial review is therefore dismissed.

[23] The parties have not proposed any questions for certification, and I agree that there are none.

JUDGMENT in IMM-8158-21

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

“Elizabeth Walker”

Judge

Certified true translation
Janna Balkwill

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8158-21

STYLE OF CAUSE: FLORIANE PAYO NGANDEU v MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 21, 2022

JUDGMENT AND REASONS: WALKER J.

DATED: DECEMBER 1, 2022

APPEARANCES:

Aristide Koudiatou FOR THE APPLICANT

Patricia Nobl FOR THE RESPONDENT

SOLICITORS OF RECORD:

Aristide Koudiatou FOR THE APPLICANT
Avocat | Lawyer
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Quebec