

Federal Court



Cour fédérale

**Date: 20230417**

**Docket: IMM-2102-22**

**Citation: 2023 FC 560**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, April 17, 2023**

**PRESENT: Mr. Justice Diner**

**BETWEEN:**

**JOBERTE FLORES KOUMI**

**Applicant**

**and**

**THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

[1] This application for judicial review concerns the Refugee Appeal Division [RAD] decision rejecting the applicant's refugee protection claim for lack of credibility and confirming the Refugee Protection Division [RPD] decision. The application for judicial review is dismissed for the reasons that follow.

I. Background and facts

[2] The applicant is a citizen of Cameroon. She fears her stepfather, who allegedly raped and sexually harassed her several times because she refused to join the youth section of the political party the stepfather was a member of. The applicant's mother did not believe her. The applicant apparently went to see her aunt, who helped her file her first complaint with the police in 2007 or 2012 (the date of the complaint is in dispute). The complaint was allegedly never followed up on because the police told the applicant that she was trying to tarnish her stepfather's image.

[3] The applicant then apparently fled to Equatorial Guinea before returning to Cameroon in February 2014. In April 2014, she hit her stepfather and burnt some important documents that belonged to him after catching him beating her mother. Following that incident, the stepfather allegedly lodged a complaint with the police, and the applicant was arrested but released two days later.

[4] After she was released, the applicant allegedly escaped again to Equatorial Guinea, where she reportedly met her future spouse. Her spouse allegedly became violent toward her. She therefore apparently sought to leave Equatorial Guinea and obtained a visa for the United States in March 2018. She allegedly briefly returned to Cameroon, where she stayed in hiding until she left for the United States on March 20, 2018. Her mother reportedly left her stepfather after the applicant left for the United States because of conjugal violence.

[5] From the United States, the applicant travelled to Canada, where she filed a refugee protection claim in May 2018. Following a hearing, the RPD rendered a decision on October 7, 2021, rejecting her claim for refugee protection on the basis of a lack of credibility. The applicant appealed the RPD decision to the RAD, and on February 22, 2022, the RAD dismissed the appeal [Decision].

## II. Analysis

[6] In this case, I find the Decision to be reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 85 [Vavilov]). The applicant raised no reviewable errors made by the RAD.

### A. *The RAD reasonably found that the applicant lacked credibility.*

[7] The RAD raised several factors concerning the applicant's allegations that fatally undermined her credibility: (i) the contradictions regarding the date on which her first complaint to the police was filed; (ii) the inconsistencies resulting from the documents filed and the applicant's testimony regarding the alleged 2014 events; and (iii) the failure to indicate in her Basis of Claim [BOC] Form and during amendments at the start of the hearing that her stepfather still showed an interest in her.

[8] The applicant stated the following at question 2(a) of her BOC Form: [TRANSLATION] “it was my aunt that I turned to and who was with me when I filed a complaint, which had no follow-up in 2012.” The applicant argues that there is no contradiction between that statement

and her oral testimony, based on which she filed the complaint in 2007, because a complaint filed in 2007 could still have no follow-up in 2012.

[9] However, that explanation by the applicant is unreasonable given that the rest of her BOC Form mentions no events—either assaults or complaint filings—that took place in 2007. Even if we were to assume that the complaint was filed in 2007, the applicant contradicted herself in her oral testimony by stating that she had filed the complaint in May 2007, while in the documentary evidence submitted, the applicant told the police that she had filed a complaint in July 2007.

[10] It was therefore reasonable for the RPD and the RAD to conclude that there were indeed contradictions with respect to the date on which the applicant's first complaint was filed, which undermined her credibility.

[11] The applicant argues that the RAD's reasons were not transparent with respect to the inconsistencies regarding whether the applicant had gone to the police station to personally file the complaint. The applicant submits that she has always provided the same version of the facts, namely, that she went to the police station to file the complaint personally and that nothing [TRANSLATION] “was ambiguous”, as stated by the RAD in its reasons.

[12] I agree with the applicant that the RAD did not elaborate further on this point, but I am of the view that this is merely a minor misstep that is an alternative observation and is not significant enough to vitiate the RAD's reasoning. The RAD reasonably concluded that there

were enough unexplained contradictions concerning the alleged events that took place in 2007 to undermine the applicant's credibility.

[13] In any case, I note that the applicant's omitting any allegations dating back to 2007 in her BOC Form undermines her credibility, especially since she filed documentary evidence—the preliminary investigation notes regarding a complaint filed by her stepfather against her in 2014—that refers to the incidents that took place in 2007.

[14] Furthermore, the applicant alleges that on April 15, 2014, she hit her stepfather and burnt some important documents belonging to him after catching him beating her mother. The applicant alleges that she was arrested after that incident because of a complaint filed by her stepfather and that she was released two days later. The RPD and the RAD concluded that the applicant had failed to establish these facts on a balance of probabilities because of inconsistencies between the documents she filed and her testimony.

[15] The RAD noted, among other things, that the 2014 preliminary investigation notes indicate different dates for the alleged events. The neighbour testified that the incident took place on February 18, 2014, rather than April 15, 2014. The stepfather's complaint and the transcript of his testimony are dated April 15, 2015, but the statement at the end of the transcript attesting to the truthfulness of the testimony is dated April 16, 2015. The applicant's detention and release notes are all dated April 22, 2015, while the applicant indicated in her BOC Form and her testimony that she was detained for two days.

[16] The RAD also noted that the RPD gave the applicant an opportunity to explain these inconsistencies at the hearing, but that she proposed no reasonable explanation other than that the authorities made clerical errors. I am of the view that, given the number of errors, it was reasonable for the RAD and the RPD to give this documentary evidence limited probative value and to conclude that not only were they not sufficient to establish the facts alleged in 2014, but that the inconsistencies in that documentary evidence also undermined the applicant's credibility.

[17] With respect to the absence of a prospective fear, the applicant submits that she did not fail to mention her stepfather's continued interest in her in her BOC Form because she stated: [TRANSLATION] "he swore that he would get me ... I fled from [Equatorial Guinea] to Cameroon, where Mr. [N] was looking for me, and then fled to the United States".

[18] The allegations that her stepfather [TRANSLATION] "swore that he would get her" date back to 2015. With respect to the fact that her stepfather was looking for her, that statement suggests that this was after she had returned to Cameroon from Equatorial Guinea, but as reasonably noted by the RAD, nothing in the statement suggests that her stepfather was still interested in her after she fled to the United States in 2018.

[19] Nowhere in her BOC Form does the applicant state that her stepfather was in contact with her mother after their separation even though she is trying to allege in her affidavit before this Court that her stepfather is still looking for her [TRANSLATION] "prowling around the neighbourhood where [her] mother lives". I cannot consider the applicant's new allegations, which were not presented before the RAD. The applicant has not established a prospective fear

as required for a refugee protection claim (*Fernandopulle v Minister of Citizenship and Immigration*, 2005 FCA 91 at para 21). It was reasonable for the RAD to make a negative credibility finding on this basis.

B. *The RAD reasonably analyzed the evidence and concluded that it was not sufficient to establish the applicant's allegations.*

[20] In light of the applicant's lack of credibility, the RAD reasonably concluded that the evidence filed—the photos of her mother and the medical notes from 2009—had little probative value and were insufficient to corroborate her allegations on a balance of probabilities. The applicant's arguments raise no reviewable errors, but are an attempt to get this Court to reassess the evidence, which is not its role.

[21] First, there was no means of establishing that the person in the photos was in fact the applicant's mother, nor that this person's wound had been inflicted by the stepfather. In addition, the RAD noted that the photos do not make it possible to corroborate the applicant's allegations that she was subjected to or risks being subjected to the same treatment as her mother, especially since the photos are undated and since her mother left her stepfather.

[22] Second, the RAD reasonably concluded that, even if it were to assume that the 2009 medical notes had probative value and to disregard the lack of security features on the notes—the original documents appear to have been modified and some pages have no stamp or doctor's signature—the medical notes were insufficient to establish the existence of a well-founded

prospective fear after 2009—more than a decade later—now that the applicant is an adult woman and her mother is no longer in a relationship with her stepfather.

C. *The applicant failed to establish a reasonable chance of persecution as a woman.*

[23] The RAD determined that the applicant failed to establish a reasonable chance of persecution as a woman. The applicant challenges this conclusion of the RAD and argues that the RPD and the RAD failed to apply the Immigration and Refugee Board's Guideline 4: *Guidelines issued by the Board pursuant to subsection 65(3) of the Immigration Act: Women Refugee Claimants Fearing Gender-Related Persecution*, which came into force on November 13, 1996 [Guidelines].

[24] I cannot agree with the applicant's arguments in this respect. The RAD explained in its reasons, and I agree, that the applicant did not elaborate on her allegation. She did not explain how the RPD and the RAD failed to apply the Guidelines, even though both panels specifically stated that they had considered and applied the Guidelines in their reasons. In addition, I note that the applicant relied on *Josile v Canada (Citizenship and Immigration)*, 2011 FC 39, which deals with single women in refugee camps after the earthquake in Haiti. That situation does not apply to the facts of this case.

[25] Finally, I note that the RAD rejected the applicant's argument that her perceived wealth and the fact that she has children born in America do not constitute a ground of persecution under the Convention. The applicant did not challenge that conclusion of the RAD before this Court.



III. Conclusion

[26] For the above reasons, the Decision is reasonable and, accordingly, this application for judicial review is dismissed.

**JUDGMENT in IMM-2102-22**

**THE COURT'S JUDGMENT is as follows:**

1. The application for judicial review is dismissed.
2. No question is certified.
3. There is no order as to costs.

“Alan S. Diner”

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Judge

Certified true translation  
Margarita Gorbounova

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

**DOCKET:** IMM-2102-22

**STYLE OF CAUSE:** JOBERTE FLORES KOUMI v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** APRIL 5, 2023

**JUDGMENT AND REASONS:** DINER J.

**DATED:** APRIL 17, 2023

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