

Federal Court



Cour fédérale

**Date: 20230829**

**Docket: IMM-8885-22**

**Citation: 2023 FC 1168**

**Ottawa, Ontario, August 29, 2023**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**AYNADIS TESSEMA BESHAH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Ms. Beshah, a citizen of Ethiopia, is seeking judicial review of the refusal of her application for refugee status outside Canada. I am dismissing her application for the following reasons.

[2] A visa officer found Ms. Beshah not to be credible, because the answers she gave in the interview contradicted information she provided in her written application.

[3] In her written submissions, Ms. Beshah argues that the officer invented these contradictions “out of thin air” because her Schedule 2 form, on which she indicated the grounds justifying refugee status, does not contain the statements that the officer attributes to her. She also submits that the officer failed to acknowledge that the United Nations High Commissioner for Refugees [UNHCR] granted her refugee status in Uganda, where she now lives.

[4] However, Ms. Beshah bases her submissions on a version of her Schedule 2 form that was never filed with Immigration, Refugees and Citizenship Canada [IRCC]. Ms. Beshah attached a Schedule 2 form dated September 24, 2019 to her application record, accompanied by a two-page narrative. However, the certified tribunal record [CTR] contains a different Schedule 2 form, which Ms. Beshah signed on November 25, 2019. This form does not include a separate narrative; instead, the description of the events on which Ms. Beshah bases her claim is contained in the form itself. Moreover, the CTR contains another Schedule 2 form, undated and unsigned, which repeats some statements contained in the September 24, 2019 form, but without any attached narrative.

[5] The decision-maker provided an affidavit stating that IRCC received only two Schedule 2 forms: the one dated November 25, 2019, and the undated one, which was filed on April 6, 2022 (a few days before Ms. Beshah’s interview). The decision-maker denies that IRCC received the form dated September 24, 2019.

[6] At the hearing, counsel for Ms. Beshah speculated that the forms may not have been translated for her before she signed them or that the person assisting her may have made a

mistake when uploading the forms to IRCC's website. However, Ms. Beshah provided no evidence in this regard. Her application record contains an affidavit sworn by a legal assistant at her current counsel's firm, which was not involved in preparing and filing the forms.

[7] In these circumstances, I have no reason to doubt that the CTR contains the Schedule 2 forms that Ms. Beshah actually filed with IRCC. As my colleague Justice Angela Furlanetto stated in *Adams v Canada (Citizenship and Immigration)*, 2021 FC 1104 at paragraph 19:

It is well established that where a document does not appear in the CTR, the Court will presume that the document was not before the immigration officer, unless there is evidence from the applicant establishing the contrary. A bare assertion is not enough. The burden lies with the applicant to demonstrate that the document was before the decision-maker . . .

[8] Ms. Beshah brought no evidence that she transmitted the form she signed on September 24, 2019 to IRCC. Nor did she provide any evidence that she did not transmit the form she signed on November 25, 2019. She has therefore failed to rebut the presumption arising from the contents of the CTR.

[9] When one considers that the officer had the November 25, 2019 form before her, her findings regarding the contradictions between Ms. Beshah's answers in the interview and her written application are fully substantiated. These contradictions pertain to material aspects of Ms. Beshah's story, in particular how she met her agent of persecution, whether she complained to the police, whether she returned to Ethiopia and how old she was when her twins were born. Having reviewed the record, I am satisfied that the officer put the contradictions to Ms. Beshah

and gave her an opportunity to respond. The officer's findings are intelligible and justified on the record.

[10] Moreover, the inconsistency of Ms. Beshah's answers regarding her age when she gave birth does not depend on which set of forms is considered, as the dates of birth of the persons concerned are the same on each form.

[11] In her written submissions, Ms. Beshah alleged that UNHCR recognized her as a refugee. At the hearing, however, she acknowledged that while she claimed refugee status in Uganda, she has not been granted such status. The visa officer was therefore not required to address this issue in her reasons.

[12] The officer's decision was reasonable. For these reasons, Ms. Beshah's application for judicial review will be dismissed.

**JUDGMENT in IMM-8885-22**

**THIS COURT'S JUDGMENT is that**

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

"Sébastien Grammond"

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Judge

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

**DOCKET:** IMM-8885-22

**STYLE OF CAUSE:** AYNADIS TESSEMA BESHAH v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** AUGUST 29, 2023

**JUDGMENT AND REASONS:** GRAMMOND J.

**DATED:** AUGUST 29, 2023

**APPEARANCES:**

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