

Federal Court



Cour fédérale

**Date: 20231124**

**Docket: IMM-9519-22**

**Citation: 2023 FC 1568**

**Ottawa, Ontario, November 24, 2023**

**PRESENT: The Honourable Justice Fuhrer**

**BETWEEN:**

**THI THUY TIEN DO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Thi Thuy Tien Do, is a citizen of Vietnam. She claimed refugee protection in Canada based on her beliefs and faith as a practising Hoa Hao Buddhist. The Applicant asserts that she left Vietnam after the police blocked a large gathering of Hoa Hao Buddhists at a monument and she developed a fear that, like other adherents, she could be arrested one day.

[2] The Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada rejected the Applicant's claim due to credibility issues. On September 6, 2021, the Refugee Appeal Division [RAD] found that the RPD's reasons could have been more fulsome, but it ultimately came to the same conclusion and rejected the Applicant's appeal [Decision].

[3] The Applicant seeks to have the Decision set aside. The overarching issue for determination is the reasonableness of the Decision. I find that there are no circumstances here that displace the presumptive reasonableness standard of review: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 17, 25.

[4] A decision may be unreasonable, that is, lacking justification, transparency and intelligibility, if the decision maker misapprehended the evidence before it. The party challenging the decision has the onus of demonstrating that the decision is unreasonable: *Vavilov*, above at paras 99-100, 125-126.

[5] The Applicant has not met her onus. As explained below, I find that the Applicant's written and oral submissions demand a level of perfection of the Decision that is not warranted, and are tantamount to a request of this Court to reweigh the evidence that was before the RAD, contrary to the guidance in *Vavilov* (at paras 91, 125). I thus dismiss this judicial review application.

## II. Analysis

[6] The Applicant raises three sub-issues that I address below in turn, namely, the reasonableness of the RAD's findings that: (i) the Applicant is not a genuine Hoa Hao Buddhist practitioner; (ii) her reasons for leaving Vietnam were not credible; and (iii) the supporting documentation was insufficient to overcome credibility concerns.

[7] Contrary to the Applicant's submissions, I find that the Decision bears the hallmarks of justification, intelligibility and transparency, with a logical chain of analysis and internally coherent reasons that permit the Court "to connect the dots on the page where the lines, and the direction they are headed, may be readily drawn": *Vavilov*, above at para 97, citing *Komolafe v Canada (Minister of Citizenship and Immigration)*, 2013 FC 431 at para 11.

[8] The Applicant's counsel points to instances in the transcript of the RPD hearing where the interpreter appears to be struggling. While the Court does not disagree necessarily, the issue should have been raised much sooner—as Applicant's counsel admitted. The first time for doing so is not on judicial review. Notwithstanding any possible issues with interpretation, I find that the transcript discloses on its face that the Applicant had several opportunities to clarify her answers and she was assisted by the interpreter in that regard.

A. *The RAD reasonably concluded that the Applicant was not a genuine Hoa Hao Buddhist*

[9] The Court is not persuaded that the RPD focused on the minutiae of the Hoa Hao Buddhist faith or put forward quiz-like questions for the Applicant to answer. Whether it did so,

however, is not the question this Court must consider on judicial review. Rather, the Court must ask itself if the RAD's reasons permit the Court to understand how the RAD arrived at the outcome, stripped of any bolstering, embellishment or speculation in the parties' submissions.

[10] In the Court's view, the RAD's reasons add up and are rooted in the evidence considered by both the RPD and the RAD afresh. I note that the Applicant did not file any new evidence before the RAD.

[11] While decision makers can ask objective questions about religion to gauge the genuineness of the claimant's faith, they must refrain from "adopt[ing] an unrealistically high standard or engag[ing] in a microscopic analysis": *Gao v Canada*, 2021 FC 490 at para 20. The bar of religious knowledge is low for refugee claimants; claims are based on sincerity of belief, not whether the beliefs are theologically sound: *Zheng v Canada*, 2019 FC 731 at paras 16-17.

[12] The RAD is better positioned than this Court to make findings of fact. The RAD is owed deference and the Court should be hesitant to intervene, absent exceptional circumstances, such as a disregard for evidence or a misapprehension of the facts: *Siline v Canada*, 2022 FC 490 [Siline] at para 9, citing *Hou v Canada*, 2012 FC 993 [Hou]; *Liang v Canada (Citizenship and Immigration)*, 2022 FC 115 at para 21, citing *Vavilov*, above at para 125. Ultimately, a claimant must be able to demonstrate a "basic" understanding of the religion: *Siline*, above at para 9, citing *Bouarif v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 49.

[13] In this case, the RAD found that the Applicant was unable to explain the basic tenets (i.e. the Four Gratuities) and daily practices of Hoa Hao Buddhism. According to the transcript of the RPD hearing, when asked how else she practises her faith, the Applicant stated: “I just—I just pray and I just read the Bible because I—I just came into the Hoa Hao Buddhism, so I don’t know like much about, I don’t know like deeply about it.”

[14] The RAD noted, however, that the Applicant asserted that she practised every day for three years; in the RAD’s view, this explanation was not credible. The RAD also considered the Applicant’s education level (i.e. high school, plus one year of college in business administration studies). Further, the transcript explicitly states the RPD’s concern about the Applicant having the appearance of reading something (i.e. documents) because she was looking down when answering the RPD’s questions about Karma.

[15] As this Court noted in *Hou* (above at para 55), the reviewing Court should be mindful of the decision maker’s “expertise regarding the dictates of a number of religions” and, hence, cautious about “decid[ing] to, in effect, reweigh the results of what can look like a round of Bible trivia.” The Applicant here urges the Court to do just that.

[16] Even if the Court itself might have come to a different conclusion about whether the Applicant’s beliefs are held genuinely, this does not mean in itself that the Decision is unreasonable: *Solis Mendoza v Canada (Citizenship and Immigration)*, 2021 FC 203 at para 43. Having reviewed the transcript of the RPD hearing, I am unable to conclude that the Decision is unreasonable.

B. *The RAD reasonably concluded that the Applicant's reasons for leaving Vietnam were not credible*

[17] I disagree with the Applicant that the RAD focused on the omission from the Applicant's basis of claim of her earlier plans to come to Canada. In my view, the RAD reasonably pointed to a series of inconsistent statements and evolving testimony regarding when and why the Applicant decided to leave Vietnam, and what job she started and why she started it.

C. *The RAD reasonably concluded that the supporting documentation was insufficient*

[18] Contrary to the Applicant's submissions, this is not a case where the Respondent ignored documentary evidence (which it is presumed to have been considered unless the contrary is established). Rather, the RAD identified each piece of supporting evidence and reasonably explained why the RAD assigned it little weight. As mentioned above, that different conclusions might have been drawn from the evidence does not render the Decision unreasonable. Urging the Court reconsider the evidence shifts the focus from the Decision itself and it is tantamount to a request to reweigh, which is not the role of the reviewing Court.

### III. Conclusion

[19] For the above reasons, I find that the Applicant has failed to identify any reviewable error committed by the RAD. The Applicant's judicial review application therefore is dismissed.

[20] Neither party proposed a question for certification, and I find that none arises in the circumstances.

**JUDGMENT in IMM-9519-22**

**THIS COURT'S JUDGMENT is that:**

1. The Applicant's application for judicial review of the Refugee Appeal Division's decision dated September 6, 2022 is dismissed.
2. There is no question for certification.

"Janet M. Fuhrer"

---

Judge

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

**DOCKET:** IMM-9519-22

**STYLE OF CAUSE:** THI THUY TIEN DO v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** OCTOBER 16, 2023

**JUDGMENT AND REASONS:** FUHRER J.

**DATED:** NOVEMBER 24, 2023

**APPEARANCES:**

Phillip J.L. Trotter

FOR THE APPLICANT

Kareena Wilding

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Phillip J.L. Trotter  
Phil Trotter Lawyer Services  
Toronto, Ontario

FOR THE APPLICANT

Attorney General of Canada  
Toronto, Ontario

FOR THE RESPONDENT