

Federal Court



Cour fédérale

Date: 20240326

Docket: IMM-6069-22

Citation: 2024 FC 469

Ottawa, Ontario, March 26, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

NYAMUSA JESSY NYAM

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The applicant claims to be Nyamusa Jessy Nyam, a 61-year-old citizen of the Republic of Cameroon. She sought refugee protection in Canada on the basis of her fear of persecution as a supporter of the Anglophone resistance movement in Cameroon.

[2] According to her narrative, in September 2017, shortly before she left for Canada, the applicant was arrested by police at her home in Bamenda. They were looking for her stepson, Teche Felix Nyamusa, a prominent opposition figure and outspoken critic of the government of President Paul Biya. The applicant believed that, by arresting her, the police were trying to intimidate her as well as sending a message to her stepson that he should give up his political activism. After being held for three days, the applicant was released. She claimed that the authorities had harassed her and her family because of their political activism before this incident as well.

[3] The Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) rejected the claim because the applicant had failed to establish her identity.

[4] The applicant appealed this determination to the Refugee Appeal Division (RAD) of the IRB. In a decision dated June 2, 2022, the RAD agreed with the RPD that the applicant had failed to establish her identity. The RAD therefore dismissed the appeal and confirmed the RPD's determination that the applicant is neither a Convention refugee nor a person in need of protection.

[5] The applicant now applies for judicial review of the RAD's decision under subsection 72(1) of the *Immigration and Refugee Protection Act, SC 2001, c 27 (IRPA)*. She submits that the RAD's identity determination is unreasonable.

[6] As I will explain in the reasons that follow, I do not agree. This application for judicial review will, therefore, be dismissed.

II. BACKGROUND

[7] The applicant's hearing before the RPD took place over two days – January 28, 2020, and June 9, 2021. The long gap between the two hearing dates was due to the onset of the COVID-19 pandemic. The hearing proceeded in person on the first day and virtually on the second. The question of whether the applicant had established her identity was the main focus of the proceeding.

A. *Evidence of the applicant's identity*

[8] When she applied for refugee protection, the applicant identified herself on the Basis of Claim form as Nyamusa Jessy Nyam, a citizen of Cameroon born in January 1963. As evidence of her nationality and personal identity, she relied on a Cameroonian passport issued in this name on March 27, 2014.

[9] The formatting of personal names in documents in the record does not appear to always follow a consistent pattern. In these reasons, unless otherwise indicated, I will set out personal names exactly as they appear in the document in question.

[10] In the applicant's case, her passport identifies her family name as Nyam and her given names as Nyamusa Jessy. The Cameroonian National Identity Card produced by the applicant

before the RPD (discussed below) identifies her in the same way. For the most part, the applicant identified herself in this way in the documents prepared in support of her refugee claim as well as in an application she submitted in 2017 for a Canadian visitor visa (see below). One exception is the personal narrative attached to her Basis of Claim form, where the applicant identifies herself as Nyam Nyamusa Jessy.

[11] Nyamusa Jessy Nyam is understood to be the applicant's married name. The applicant and her husband were married in January 1980. He is identified in both a marriage certificate and his death certificate as Nyamusa Moses Nyam (he was born in January 1935 and passed away in August 2005). In her Basis of Claim form, the applicant states that Nyamusa was her husband's family name and Moses Nyam were his given names.

[12] The applicant used the Cameroonian passport to travel to Canada on September 15, 2017. She was permitted to enter Canada on the strength of a visitor visa that had been issued in July 2017.

[13] According to the applicant, she applied for this visa so that she could visit her youngest daughter, who lives in Toronto. (The applicant's daughter made a successful claim for refugee protection in Canada in 2014. The basis of her claim is not mentioned anywhere in the record.) The applicant's original plan had been to stay in Canada for only a month but, when conditions continued to deteriorate in Cameroon, she decided to make a refugee claim here. She submitted the claim in February 2018. Her passport was seized at that time.

[14] The applicant provided her first disclosure of documents to the RPD on November 14, 2018. The index of documents prepared by the applicant's counsel (not Mr. Kaminker) identified item C-3 as the applicant's birth certificate. As was confirmed during the first RPD hearing, this was a mistake; in fact, item C-3 is a copy of the death certificate for the applicant's late husband. The applicant testified that her birth certificate was at her home in Bamenda, and it was too dangerous for her to ask anyone to retrieve it for her. By the time of the second RPD hearing, however, both the applicant and her counsel seem to have been under the (mistaken) impression that she had provided her birth certificate to the RPD. It does not appear anywhere in the record.

[15] Also included in the applicant's first disclosure package were a First School Leaving Certificate Examination confirming the successful completion of a school examination by Tagyen Jessy Akwi (the applicant's maiden name) in 1974 as well as an "employment document" for Jessy Nyam Nyamusa dated January 5, 2012. While the latter document is not otherwise explained in the record, it appears to be a statement of earnings for the year 2011 for her work as a teacher. (In her Basis of Claim narrative, the applicant stated that she had worked as a primary school teacher from 1982 until her retirement in 2011. On the other hand, according to her 2017 visa application, the applicant's only source of income since March 2005 was rent paid on family-owned properties. The applicant was not asked about this apparent discrepancy.)

[16] The applicant's disclosure package also included affidavits from Edna Mah Nyamusa, who identified Nyam Nyamusa Jessy as her mother (this is the daughter who lives in Canada),

and Teche Felix Nyamusa, who identified Nyam Nyamusa Jessy as his stepmother. (When the applicant applied for the Canadian visa in July 2017, she did not include Teche Felix Nyamusa on the list of her children or stepchildren. She does identify him as her stepson on her Basis of Claim form, giving his date of birth as January 17, 1966.) The stepson's affidavit is not accompanied by any personal identification, nor does it mention the deponent's date of birth. The deponent does state that Nyam Nyamusa Jessy was married to his father, although he does not name his father.

[17] I note parenthetically that the index to the applicant's first disclosure package lists item C-1 as "Copies of Felix Teche Nyamusa's ID including his political party (SDF) membership card." However, only photographs of four different membership cards for the Social Democratic Front were provided: three in the name of Felix Teche Nyamusa (for 1999, 2011, and 2016) and one in the name of Felix T. Nyamusa (also for 2011). The provenance of the photographs is not explained. The record does not include any form of government-issued identification for Teche Felix Nyamusa (or Felix Teche Nyamusa).

[18] The applicant's fingerprints were taken by Canadian authorities as part of the processing of her refugee claim. In response to a query from Canadian authorities, the US Department of Homeland Security reported that the applicant's fingerprints were linked to a non-immigrant visa application submitted in 2004 by Janet Agwi Fon Fominyen Seta, a citizen of Cameroon born in January 1954. A Cameroonian passport in this name had been submitted with the application. The fingerprints on record with US authorities were taken on April 15, 2004, in Yaoundé, Cameroon. The visa was refused, although the reason is not included in the report.

[19] This information was filed with the RPD and disclosed to the applicant in a February 2019 intervention by the Minister of Citizenship and Immigration pursuant to paragraph 170(e) of the *IRPA* and section 29 of the *Refugee Protection Division Rules*, SOR/2012-256 (*RPD Rules*). The Minister alleged in written submissions that the applicant had misrepresented her true identity when seeking refugee protection and had also failed to disclose the US visa refusal. (In the Schedule A – Background/Declaration form she completed in connection with her refugee claim, the applicant stated that she had been refused a visa to visit Germany in 2015. She did not disclose any other visa refusals.)

[20] The applicant provided a second disclosure package to the RPD on January 17, 2020. It included a letter dated November 20, 2019, from Nyamusa Pamela Emamban. The author of the letter identifies Nyam Nyamusa Jessy as her mother. The letter is not accompanied by any form of identification. (In her Canadian visa application, the applicant had identified Nyamusa Pamela Emamban as her daughter and as a resident of Yaoundé. This would appear to be the same person listed in the applicant's Basis of Claim form as Pamela Nyamusa.) None of the applicant's additional evidence addressed the information provided in the Minister's intervention.

[21] The issue of the applicant's identity was the focus of the hearing before the RPD on January 28, 2020. The RPD member questioned the applicant extensively about the 2004 US visa application disclosed in the Minister's intervention. As will be discussed below, both the RPD and the RAD found the applicant's evidence on this subject to be vague and evolving. Neither found the applicant's account of what happened in 2004 to be credible.

[22] At the January 28, 2020, hearing, the applicant called Cuthbert Ndap Nyamusa as a witness. He had been found to be a Convention refugee by the RPD in September 2019 (although the basis of his claim is not disclosed in the record). He identified the applicant as his mother. He testified that, apart from her maiden name, she had never been known by any name other than Nyamusa Jessy Nyam. (In her Canadian visa application from July 2017, the applicant listed Nyamusa Cuthbert Ndap, a resident of Denmark, as a son. It would appear that this is the same person later listed in the applicant's Basis of Claim form, which she completed in December 2017, as Ndap Nyamusa Cuthbert, although he was now a resident of Cameroon.)

[23] The hearing did not conclude on January 28, 2020, so it went over to another date for completion. As already noted, the second hearing date was delayed by the onset of the COVID-19 pandemic.

[24] On February 11, 2020, the RPD wrote to the applicant to request that she produce her Cameroonian National Identity Card. The applicant had explained during the January 28, 2020, hearing that she had not produced it previously because she did not think it was required given that she had produced her passport. Under covering letter from her counsel dated February 12, 2020, the applicant provided her National Identity Card to the RPD. The card was issued on November 5, 2014. It identifies the applicant as Nyamusa Jessy Nyam.

[25] On February 10, 2021, the RPD member wrote to Minister's counsel requesting that the applicant's Cameroonian passport be examined for authenticity. The request was forwarded to the Canada Border Services Agency (CBSA) Document Analysis Unit. In its entirety, the CBSA

response to the request stated that the passport had been “informally determined to be genuine and no formal report will be written.” No further inquiries were submitted to the CBSA.

[26] The hearing continued on June 9, 2021. Despite the CBSA opinion concerning its genuineness, the RPD member questioned the applicant extensively about what seemed to him to be multiple physical anomalies with her Cameroonian passport. The applicant maintained her position that it was a genuine passport that had been issued by the appropriate authorities.

[27] The applicant confirmed that, when she applied for the passport, she had submitted her birth certificate and her National Identity Card. As noted above, the applicant’s birth certificate is not found anywhere in the record. As well, while the applicant did provide her National Identity Card to the RPD, it cannot have been the one she used to obtain her passport. This is because the passport was issued on March 27, 2014, while the National Identity Card in the record was issued some seven months later.

[28] The applicant could not recall why she had needed a new National Identity Card in 2014. She testified she only had to provide her birth certificate to obtain it. She stated she had lost her original birth certificate sometime around 2010 to 2012 and obtained a replacement; this was what she used to obtain the National Identity Card in 2014.

[29] The package of documents initially sent to the RPD by the CBSA and Immigration, Refugees and Citizenship Canada included information and documents relating to the applicant’s successful application in July 2017 for a visa to visit her daughter Edna Mah Nyamusa in

Canada. This included: statements from the Ntarinkon Cooperative Credit Union confirming the current balance of an account held by Nyamusa Jessy Nyam; a certificate of marriage between Nyamusa Moses Nyam and Jessy Akwi dated January 18, 1980; a death certificate for Nyamusa Moses Nyam dated August 23, 2005; and a birth certificate for Edna Mah Nyamusa naming Nyamusa Moses Nyam as her father and Jessy Akwi Nyamusa as her mother. Counsel for the applicant referred to these documents only in passing in submissions to the RPD. His principal submission was that the applicant's passport and National Identity Card established her nationality and her personal identity.

B. *The RPD decision*

[30] In a decision dated October 19, 2021, the RPD rejected the applicant's refugee claim, finding that the applicant had not established her personal identity on a balance of probabilities.

[31] The RPD found that there were serious reasons to doubt the veracity of the applicant's testimony as it relates to her identity. The applicant's testimony was often hesitant and lacking in spontaneity. Her answers were often evasive and did not respond to questions in a forthright manner. Regarding events in 2004, the RPD found that the applicant had applied for a US visa using the name Janet Agwi Fon Fominyen Seta and she failed to provide a credible explanation of this event, which undermined her overall credibility. Given its obvious physical anomalies, the applicant had not established that her Cameroonian passport is genuine; indeed, the RPD found as a fact that it is not genuine. The RPD was not prepared to give any weight to CBSA's "informal opinion" as to the genuineness of the passport. The applicant's National Identity Card could not be accepted as genuine given the overall concerns with the applicant's credibility in

relation to her personal identity, together with country condition evidence establishing the prevalence of fraudulent National Identity Cards in Cameroon at the relevant time.

[32] In sum, the RPD found that the applicant failed to establish, with credible and trustworthy evidence, on a balance of probabilities, that she is who she says she is, and that she is a national of Cameroon. There was therefore no need to address the merits of her claim for protection.

C. *The applicant's appeal to the RAD*

[33] The applicant initially raised three grounds in her appeal to the RAD: (1) the lack of a complete recording of the proceedings before the RPD gave rise to a breach of the requirements of natural justice; (2) it was unreasonable for the RPD to conclude that the applicant's passport is not genuine, particularly in the face of the contrary opinion from the CBSA; and (3) the manner in which the RPD questioned the applicant about apparent physical anomalies with her passport breached the requirements of procedural fairness because, with the hearing proceeding virtually, she could not examine the actual passport while she was being questioned.

[34] The applicant did not raise any issues relating to the RPD's rejection of her account of events in 2004.

[35] The first ground of appeal was abandoned subsequently, after the applicant received complete recordings of the RPD proceedings. The RAD rejected the third ground, finding that the applicant's counsel had consented to proceeding as they did and had declined the RPD's offer to make the passport available for examination post-hearing. The applicant does not

contest the RAD's conclusion in this regard. As a result, only the RAD's analysis of the second ground of appeal will be set out in what follows.

III. DECISION UNDER REVIEW

[36] On the basis of its own assessment of the record, the RAD agreed with the RPD that the applicant had failed to establish her identity on a balance of probabilities with credible and trustworthy evidence. However, in reaching this conclusion, the RAD disagreed with the RPD in a key respect. The RAD agreed with the applicant that the RPD had erred in concluding that her Cameroonian passport was not genuine.

[37] As the RAD explained, it preferred the CBSA's determination concerning the genuineness of the passport over the RPD's. While the CBSA had provided only an "informal" opinion, and the report did not explain how the passport had been examined, it was nevertheless clear that the examiner judged the passport to be genuine. Significantly for the RAD, although the RPD had identified a number of physical anomalies with the passport, if they were in fact present, they must not have been sufficient to cast the genuineness of the passport into doubt for the CBSA document examiner, who has expertise in such matters. (It does not appear that the RAD member examined the passport for himself.) The RAD also found that its conclusion as to the genuineness of the passport was supported by the fact that no concerns were raised about the passport when the applicant applied for and was granted a Canadian visitor visa, which was affixed to the passport. For these reasons, and contrary to the RPD's finding, the RAD was satisfied on a balance of probabilities that the Cameroonian passport issued in 2014 is a genuine passport and not a forgery.

[38] This, however, was not the end of the matter.

[39] The RAD agreed with the applicant that possession of a genuine passport is *prima facie* evidence of an individual's identity. However, it does not follow that the individual's identity is therefore established. Identity must be established on a balance of probabilities. Absent any reason to doubt a claimant's identity, the *prima facie* evidence of identity provided by a genuine passport "may well be sufficient to establish a claimant's identity on a balance of probabilities" (RAD Reasons, para 27). In the present case, however, the RAD found that there was a significant reason to doubt the applicant's identity – namely, her use of a passport in the name of Janet Agwi Fon Fominyen Seta to apply for a US visa in 2004.

[40] The applicant claimed to have little memory of whatever it was that had happened in 2004. The gist of her evidence, though, was that she is not Janet Agwi Fon Fominyen Seta (although at one point during a trip to Yaoundé in 2004 with a group of traditional dancers, she may have been instructed by a village elder to stand when this name was called at a meeting) and, further, the visa application must have somehow been made without her knowledge. The applicant could not explain how her fingerprints had been taken without her knowing it was for a US visa application.

[41] The RAD (like the RPD) found that the applicant's account of events in 2004 was not credible. The RAD concluded as follows in this regard: "Having carefully reviewed the evidence, I find that the RPD correctly found that the previous visa application is not reasonably explained; it, and the Appellant's inconsistent and evolving testimony cast serious doubt on the

Appellant's personal identity, and seriously undermine her overall credibility" (RAD Reasons, para 20). The RAD therefore concluded that, contrary to the applicant's submission, her possession of a genuine passport did not establish her identity on a balance of probabilities.

[42] The RAD also found that the applicant's possession of a genuine passport did not constitute sufficient evidence of her identity because she had not established that it was obtained using genuine documents. The applicant testified that she had submitted her birth certificate and her National Identity Card when she applied for the passport. However, she had not produced the birth certificate to the RPD (despite apparently thinking she had – see paragraph 14, above) and objective country condition evidence indicates that identity fraud is common in Cameroon, including through obtaining National Identity Cards by fraudulent means. (The RAD does not comment on the fact that, in any event, the National Identity Card the applicant produced to the RPD cannot be the one she used to obtain her passport – see paragraphs 24 and 27, above). The RAD therefore concludes: "The fact that a genuine passport was issued in 2014 in her now claimed name does not displace the possibility that such passport was issued based on fraudulent supporting documents, or through bribery or other corrupt means" (RAD Reasons, para 28).

[43] Finally in this connection, the RAD finds that the unchallenged fingerprint evidence linking the applicant to the 2004 US visa application and the applicant's testimony relating to that event "significantly undermine all the evidence submitted to establish the Appellant's identity" (RAD Reasons, para 29). This includes all the documentary evidence submitted by the applicant as well as the testimony from her son. In the RAD's view, "That evidence does not overcome the evidence that the Appellant had a passport under a different name and the credible

and unchallenged evidence that she previously applied for a USA visa under that other name” (RAD Reasons, para 29).

[44] In sum, while the passport the applicant presented is a genuine Cameroonian passport issued in 2014, it does not establish the applicant’s personal identity on a balance of probabilities, and the remaining supporting evidence does not overcome the unchallenged adverse findings concerning the applicant’s credibility in relation to her identity. Thus, while the RAD did not agree with the RPD’s finding concerning the genuineness of the passport, it nevertheless found that the RPD concluded correctly that the applicant had not credibly established her personal identity on a balance of probabilities (RAD Reasons, para 30).

[45] Finally, the RAD found that, since the failure to establish identity is determinative of a claim for refugee protection, it was unnecessary to consider the merits of the claim. The RAD therefore dismissed the appeal and confirmed the RPD’s determination that the applicant is neither a Convention refugee nor a person in need of protection.

IV. STANDARD OF REVIEW

[46] The parties agree, as do I, that the RAD’s decision should be reviewed on a reasonableness standard (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 at para 35). A reasonable decision “is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision that displays these qualities is entitled to deference from the reviewing court (*ibid.*).

[47] When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances (*Vavilov*, at para 125). Nevertheless, the test of reasonableness and its requirements of justification, intelligibility and transparency apply to an administrative decision maker's assessment of the evidence and to the inferences the decision maker draws from that evidence (*Kreishan v Canada (Citizenship and Immigration)*, 2019 FCA 223 at para 46). Consequently, adverse findings of fact and adverse inferences with respect to credibility must find their justification in the evidence before the decision maker and their expression in the decision maker's reasons (*ibid.*).

[48] The onus is on the applicant to demonstrate that the RAD's decision is unreasonable. To set aside a decision on this basis, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

V. ANALYSIS

[49] The legal constraints on the RPD and the RAD when it comes to the issue of identity are well established. Identity is at the "very core of every refugee claim" (*Hassan v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 459 at para 27). It is "a preliminary and fundamental issue" (*Terganus v Canada (Citizenship and Immigration)*, 2020 FC 903 at para 22). Unless the claimant's personal identity is established, there can "be no sound basis for testing or verifying the claims of persecution or, indeed for determining the Applicant's true nationality" (*Jin v Canada (Minister of Citizenship and Immigration)*, 2006 FC 126 at para 26;

Liu v Canada (Citizenship and Immigration), 2007 FC 831 at para 18; *Behary v Canada (Citizenship and Immigration)*, 2015 FC 794 at para 61). A person claiming refugee status bears the onus of establishing their identity on a balance of probabilities (*Elhassan v Canada (Citizenship and Immigration)*, 2013 FC 1247 at para 20; *Teweldebrhan v Canada (Citizenship and Immigration)*, 2015 FC 418 at para 8). At a minimum, this encompasses their personal identity and their nationality (or lack of nationality, as the case may be). Should they fail to establish these things, this will be fatal to their claim for protection (*Terganus*, at para 22).

[50] The importance of establishing a claimant's identity is reflected in section 11 of the *RPD Rules*:

11 The claimant must provide acceptable documents establishing their identity and other elements of the claim. A claimant who does not provide acceptable documents must explain why they did not provide the documents and what steps they took to obtain them.

11 Le demandeur d'asile transmet des documents acceptables qui permettent d'établir son identité et les autres éléments de sa demande d'asile. S'il ne peut le faire, il en donne la raison et indique quelles mesures il a prises pour se procurer de tels documents.

[51] Section 106 of the *IRPA* draws an express link between this obligation to produce acceptable documentation establishing identity (or to explain why it has not been produced) and a claimant's credibility. It provides as follows:

106 The Refugee Protection Division must take into account, with respect to the credibility of a claimant, whether the claimant possesses acceptable documentation establishing

106 La Section de la protection des réfugiés prend en compte, s'agissant de crédibilité, le fait que, n'étant pas muni de papiers d'identité acceptables, le demandeur ne peut raisonnablement en

identity, and if not, whether they have provided a reasonable explanation for the lack of documentation or have taken reasonable steps to obtain the documentation.	justifier la raison et n'a pas pris les mesures voulues pour s'en procurer.
---	---

[52] The applicant submits that her possession of a genuine Cameroonian passport (as found by the RAD) gave rise to a presumption that she is the person identified in the passport and is a national of the issuing country. According to the applicant, it was unreasonable for the RAD to conclude that this presumption was rebutted by the evidence relating to the 2004 US visa application, particularly in view of the other evidence corroborative of her identity the applicant had provided.

[53] I am unable to agree.

[54] I would begin by observing that the applicable analytical framework is not that of whether a presumption arising from the applicant's possession of a genuine Cameroonian passport had been rebutted. Rather, as reflected in the RAD's reasons, it is whether, in all the circumstances, the fact of the applicant's possession of a genuine Cameroonian passport, which is *prima facie* evidence of her personal identity and nationality, is sufficient on its own or in combination with other evidence to establish these things on a balance of probabilities. The burden was on the applicant to demonstrate that this was the case.

[55] Put another way, other things being equal, the inference that her identity had been established *could* be drawn from the applicant's possession of the genuine 2014 Cameroonian

passport. The question before the RAD was whether, given the applicant's unexplained possession of a second passport in another name, this inference *ought to be* drawn.

[56] In concluding that the applicant's possession of the 2014 Cameroonian passport did not amount to anything more than *prima facie* evidence of her identity, the RAD relied in part on its rejection of her account of events surrounding the 2004 US visa application. The applicant submits that it was unreasonable for the RAD to reject her evidence given that she was trying to recall things that happened some 16 years ago (at the time of the RPD hearing), things that she would have had no particular reason to commit to memory at the time. The difficulty for the applicant at this stage is that the RPD drew the very same adverse inference concerning the credibility of her account of these events and she did not challenge that finding in her appeal to the RAD. Since this issue was not raised at the RAD, it cannot be raised for the first time now (*Canada (Citizenship and Immigration) v RK*, 2016 FCA 272 at para 6; *Dahal v Canada (Citizenship and Immigration)*, 2017 FC 1102 at para 35).

[57] Furthermore, and in any event, while the applicant's evidence was often vague and equivocal, the RAD found that, in the second hearing, the applicant did expressly acknowledge having had two Cameroonian passports: the one issued in 2014 and the one used to apply for the US visa in 2004 (RAD Reasons, para 19). This finding played a significant role in the RAD's analysis; the applicant has not suggested that it is unreasonable or unsupported by the evidence. The unchallenged information in the report from US authorities was that the other passport identified the applicant as Janet Agwi Fon Fominyen Seta with a date of birth of January 1, 1954. In the absence of a credible explanation from the applicant for how she came to have two

Cameroonian passports with completely different names and dates of birth, it was not unreasonable for the RAD to conclude that a serious doubt as to her identity had arisen on the evidence and remained unresolved. The RAD's further conclusion that, as a result of this doubt, it was not prepared to infer that the applicant's possession of the 2014 Cameroonian passport established her identity on a balance of probabilities is altogether justified and supported by transparent and intelligible reasoning.

[58] The applicant also submits that there was a substantial amount of other evidence capable of corroborating her identity as Nyamusa Jessy Nyam and the RAD's cursory treatment of that evidence leaves the decision lacking in transparency, intelligibility, and justification. While the RAD's discussion of this other evidence is certainly brief, I do not agree that the decision lacks the hallmarks of reasonableness as a result.

[59] As I just noted, the RAD accepted that the applicant's possession of the 2014 Cameroonian passport is *prima facie* evidence of her nationality and personal identity. However, it concluded that this, together with the other evidence in the record, did not establish the applicant's identity on a balance of probabilities. While there was a substantial amount of other evidence in the record capable of supporting the applicant's claim to be Nyamusa Jessy Nyam (although some of the evidence identified her as Nyam Nyamusa Jessy), none of that evidence could resolve the problem at the heart of the applicant's case – namely, that she did not have a credible explanation for how she came to have two Cameroonian passports issued for persons with entirely different names and dates of birth. This is because none of the other evidence was capable of buttressing or rehabilitating the applicant's credibility with respect to this central

issue. As the RAD expressed the point, none of the other evidence could “overcome” the evidence that the applicant once had a passport under a different name and had used it to apply for a US visa under that other name (RAD Reasons, para 29). This fully explains why the RAD found that all the other evidence had insufficient probative value on the issue of the applicant’s identity. There was no need for the RAD to say more.

[60] In sum, the RAD’s conclusion that, notwithstanding her possession of a genuine Cameroonian passport, the applicant had failed to establish her identity on a balance of probabilities is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrain the decision maker. Consequently, there is no basis for this Court to interfere with that determination.

VI. CONCLUSION

[61] For these reasons, the application for judicial review is dismissed.

[62] Neither party proposed a serious question of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-6069-22

THIS COURT'S JUDGMENT is that

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

“John Norris”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6069-22

STYLE OF CAUSE: NYAMUSA JESSY NYAM v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 18, 2023

JUDGMENT AND REASONS: NORRIS J.

DATED: MARCH 26, 2024

APPEARANCES:

Hart Kaminker FOR THE APPLICANT

Stephen Jarvis FOR THE RESPONDENT

SOLICITORS OF RECORD:

Kaminker & Associates FOR THE APPLICANT
Barristers and Solicitors
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario