

Federal Court



Cour fédérale

**Date: 20240426**

**Docket: IMM-2047-22**

**Citation: 2024 FC 646**

**Ottawa, Ontario, April 26, 2024**

**PRESENT: Mr. Justice McHaffie**

**BETWEEN:**

**DEYA ABDULLAH AMRO AJARMAH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Deya Abdullah Amro Ajarmah asks the Court to set aside the decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada [IRB] dismissing his claim for refugee protection. Mr. Ajarmah contends the RAD erred in refusing to accept additional documents on his appeal and in upholding the adverse credibility findings of the IRB's Refugee Protection Division [RPD].

[2] For the reasons set out below, I conclude the RAD's decision was reasonable, both with respect to its refusal to accept the additional documents and with respect to its adverse credibility findings. On the former, the RAD reasonably concluded that the documents did not meet the requirements set out in the *Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]* for admission on appeal, since they were not new documents and could have been presented to the RPD. On the latter, the RAD reasonably concluded that various inconsistencies in the evidence, including in respect of the central incidents leading to Mr. Ajarmah's refugee claim, significantly undermined his credibility. Mr. Ajarmah's arguments, some of which are raised for the first time on this application, have not persuaded me that these inconsistencies related to irrelevant or peripheral matters, that the RAD engaged in a microscopic examination of the evidence, or that it failed to consider differing cultural norms.

[3] The RAD's decision was justified, transparent, and intelligible, and reasonably addressed both the evidence before it and the submissions made by Mr. Ajarmah. There is no basis for this Court to intervene. The application for judicial review is therefore dismissed.

## II. Issues and Standard of Review

[4] Mr. Ajarmah raises two issues on this application for judicial review:

- A. Did the RAD err in refusing to accept four new documents on appeal that had not been presented to the RPD?
- B. Did the RAD err in making negative credibility findings?

[5] The parties agree, as do I, that both of these issues are reviewable on the standard of reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Popoola v Canada (Citizenship and Immigration)*, 2022 FC 6 at para 25; *Ngandeu v Canada (Citizenship and Immigration)*, 2022 FC 1651 at para 9.

[6] When reviewing an administrative tribunal’s decision on the reasonableness standard, the Court cannot simply substitute its own decision for that of the tribunal, nor conduct its own reassessment of the evidence. Rather, its task is limited to assessing whether the decision is transparent, and intelligible, and justified in light of the legal and factual constraints that bear on it, including the applicable law, the evidence on the record, and the parties’ submissions: *Vavilov* at paras 15, 85, 94–96, 99, 105, 125–128. The onus is on the applicant to establish that there are sufficiently central or significant shortcomings in the decision to render it unreasonable: *Vavilov* at para 100.

### III. Analysis

#### A. *The RAD did not err in refusing to accept the new documents*

##### (1) The refugee claim and the RPD’s decision

[7] Mr. Amarjah’s claim for refugee protection is based on a fear of gang members and associated security authorities in Jordan. He says that his brother acted as a drug dealer for a gang and embezzled some funds before leaving Jordan. He claims that in May 2019, security forces came to his brother’s house in Zarqa to arrest him, but since he was not there, they tried to take his son, Mr. Amarjah’s nephew. Mr. Amarjah tried to defend his nephew, which resulted in

him being detained for two weeks, tortured, and threatened that he would be killed if his brother or he did not return the money.

[8] Mr. Amarjah claims that after this incident, he hid at his home for 15 days, then went to seek medical attention. Two weeks later, in July 2019, his family fled Zarqa to go to Aqaba. Mr. Amarjah left for Canada in November 2019, while his family remained in Jordan, initially in Aqaba, and later in Irbid.

[9] The RPD conducted its hearing on August 17, 2021, at which Mr. Ajarmah was represented by an immigration consultant. Mr. Ajarmah gave evidence at the hearing, as did his wife, testifying remotely from Jordan. At the conclusion of the hearing, the RPD permitted Mr. Ajarmah ten days in which to file submissions. The consultant filed submissions on Mr. Ajarmah's behalf on August 27, 2021, but did not seek to file further evidence pursuant to Rule 43 of the *Refugee Protection Division Rules*, SOR/2012-256.

[10] On September 8, 2021, the RPD issued its decision rejecting Mr. Ajarmah's refugee claim on credibility grounds. The RPD found a number of discrepancies in the evidence in respect of the incidents in May 2019, the family's relocation and subsequent threats from the gang, and the agents of harm. It concluded that the documents filed did not overcome the serious credibility concerns arising from the Mr. Ajarmah's testimony and evidence.

(2) The new documents filed on appeal to the RAD

[11] In support of his appeal to the RAD, Mr. Ajarmah sought to file four new documents, namely three lease contracts, and a statement from a Sheikh in the Irbid Governorate dated in October 2021. The three lease contracts are, respectively (i) an agreement dated July 2019 for an apartment in Aqaba; (ii) an agreement dated November 2020 for a residential apartment in Irbid; and (iii) an agreement dated April 2021 for a residential apartment for one family in Irbid. The statement from the Sheikh indicates that the family stayed with him while under threat, referring to a date of December 15, 2020, but that since “the situation became more dangerous than [he] expected,” he was no longer able to protect them.

[12] The documents were purportedly filed to respond to the RPD’s credibility concerns arising from conflicting statements about the family’s whereabouts in 2019 through 2021. Mr. Ajarmah testified at the hearing that his family were no longer living in Aqaba, as they had moved to Irbid in September or October 2020. Mr. Ajarmah’s wife, however, testified that she had been living in Irbid for about four or five months, that is, since around March or April 2021. The RPD asked her to explain the difference between that evidence and her husband’s statement that they had been in Irbid since October 2020, but was not satisfied with her explanation that they were in Aqaba then moved to Irbid and were moving from one house to another.

(3) The RAD’s rejection of the documents was reasonable

[13] Subsections 110(3) and (4) of the *IRPA* provide that an appellant can present new documentary evidence to the RAD that was not before the RPD, but only where (i) the evidence

arose after the rejection of the claim; (ii) it was not reasonably available at the time of the rejection; or (iii) the appellant could not reasonably have been expected in the circumstances to have presented it at the time of the rejection. In addition to these explicit statutory criteria, the RAD must also consider whether the evidence is relevant and credible: *Singh v Canada (Citizenship and Immigration)*, 2016 FCA 96 at paras 34–49; *IRPA*, s 171(a.3). The RAD’s rules of procedure provide that an appellant filing new evidence must provide “full and detailed submissions” regarding how the evidence meets the requirements of subsection 110(4) of the *IRPA* and how the evidence relates to the appellant: *Refugee Appeal Division Rules*, SOR/2012-257, ss 3(3)(g)(iii), 5(2)(d)(ii).

[14] The RAD concluded that the lease agreements, which pre-date the RPD hearing, and the declaration, which post-dates the hearing but speaks to events from before the hearing, were evidence that could reasonably have been filed with the RPD before its decision. The RAD rejected Mr. Ajarmah’s argument that the evidence responded to a credibility issue that only arose in the RPD’s decision. It noted that the RPD had expressly raised at the hearing the issue of the discrepancy in the evidence regarding where the family was living, and that Mr. Ajarmah presented no explanation as to why it was not possible to file the documents with his written submissions after the hearing. The RAD therefore rejected the documents. The RAD also raised other concerns with the documents. In particular, the RAD noted that the lease agreements were not probative of forward-looking risk, and that the declaration was from someone who had not been mentioned in any other document or testimony, and referred to a December 15, 2020 date that was inconsistent with Mr. Ajarmah’s statement that the family moved to Irbid in October 2020.

[15] Mr. Ajarmah asserts it was unreasonable for the RAD to reject the documents. He repeats the argument made to the RAD that the evidence only became relevant when the RPD made adverse credibility findings in its decision, and argues the documents are relevant and material since they contradict the findings of fact made by the RPD.

[16] Mr. Ajarmah has not persuaded me that the RAD's decision was unreasonable. The RAD correctly stated the applicable law and reasonably considered whether the evidence could have been presented to the RPD. The transcript of the RPD hearing confirms the RAD's statement that the RPD raised the issue of credibility, based notably on the discrepancy between Mr. Ajarmah's testimony and that of his wife about when the family moved to Irbid. Mr. Ajarmah's counsel was clearly aware that credibility was in issue, highlighting in his submissions to the RPD that credibility "is the issue in all refugee cases." He also directly addressed the evidence regarding the family's move to Irbid when making submissions with respect to the existence of an internal flight alternative within Jordan. In such circumstances, the RAD's finding that Mr. Ajarmah could reasonably have been expected to file the evidence with the RPD after the hearing when making submissions was a reasonable one. In the absence of any explanation from Mr. Ajarmah as to why that could not have been done, the RAD reasonably found that the evidence did not meet the statutory requirements for new evidence on appeal.

B. *The RAD's credibility determinations were not unreasonable*

(1) Incidents in May 2019

[17] The RAD agreed with the RPD's assessment that inconsistencies between Mr. Ajarmah's testimony and the narrative given in his basis of claim [BOC] form with respect to the incidents of May 2019 significantly undermined Mr. Ajarmah's credibility.

[18] Mr. Ajarmah's original BOC narrative, filed in June 2020, asserted that when he tried to defend his nephew, the security agencies "became more violent and they detained me for two weeks and they threatened me that they will punish [me] and they will kill me [...]," and that he was released on condition of returning the embezzled money. In an amendment to the narrative signed in January 2021, Mr. Ajarmah reiterated that when he tried to defend his nephew and stop the security forces, "they beat me up and arrested me and took me to unknown detention without any accusation for two weeks." A further amendment in August 2021 corrected the date of the incident from September 5, 2019, to May 9, 2019, asserted as having been due to a mistaken inversion of the month and the day in the dates (05/09/2019 vs 09/05/2019), without otherwise changing the narrative.

[19] However, at the RPD hearing, Mr. Ajarmah testified that there were in fact two separate incidents in May 2019. The first, on May 9, involved the attempted kidnapping of the nephew, and resulted in Mr. Ajarmah being taken away by security forces and detained for about one or two hours. The second, on May 15, involved Mr. Ajarmah again being captured by the security forces and then detained at a police station for about two weeks. The RPD was not satisfied with



Mr. Ajarmah's explanation for the discrepancy between his testimony and his BOC narrative, which the RPD described as being "essentially two different versions of a material allegation in the claimant's claim." The RPD found on a balance of probabilities that the incidents on May 9 and 15, 2019, did not occur as alleged.

[20] The RAD confirmed this finding on appeal, noting that Mr. Ajarmah had not challenged the finding in his submissions on appeal. The RAD agreed with the RPD that the explanations given for the inconsistencies were inadequate and related to important details surrounding the events leading him to flee Jordan.

[21] Mr. Ajarmah argues that the RAD erred in drawing adverse inferences from the omission of the second event from the BOC narrative. He cites cases from this Court to the effect that the BOC need not include every detail of the applicant's claim, and that adverse credibility findings should not be based on the omission of minor details: *Akhigbe v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 249 at paras 12–16; *Feradov v Canada (Minister of Citizenship and Immigration)*, 2007 FC 101 at paras 18–19.

[22] I cannot accept this argument, for two reasons. First, the argument was not raised before the RAD. As a general rule, a party cannot raise before this Court on judicial review an argument that was not put before the administrative decision maker whose decision is being challenged: *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at paras 22–26. Contrary to Mr. Ajarmah's arguments, the fact that the RAD has confirmed a finding of the RPD that was not challenged does not permit Mr. Ajarmah to raise in this Court an

argument that was not put before the RAD: *Dahal v Canada (Citizenship and Immigration)*, 2017 FC 1102 at paras 28–37.

[23] Second, and in any event, I cannot agree that the question of whether there was one incident or two is a minor or collateral detail that simply relates to dates. The events of May 2019 were the central basis for Mr. Ajarmah's asserted fear and his assertions that he had to flee Zarqa and ultimately Jordan. Describing them as a single event rather than two events separated by a week cannot be simply attributed to the summary nature of the BOC narrative. It was reasonable for the RPD and the RAD to have credibility concerns given the inadequately explained differences between Mr. Ajarmah's account of those events in his BOC narrative and his testimony.

(2) Movements and threats in Irbid

[24] The RPD drew adverse inferences from the discrepancies between the testimony of Mr. Ajarmah and his wife regarding their experiences in Irbid after leaving Aqaba. Mr. Ajarmah testified that his wife and family had moved to Irbid in September or October 2020, and that they had received no threats there. His wife testified that they had moved to Irbid in around March or April 2021, and that they had received threats from the brother's gang as recently as two months before the hearing (*i.e.*, in around June 2021). The RPD was not satisfied with the wife's explanations that the dates were different because they had moved to Irbid and were moving from one house to another, or that she had not told her husband about the threats because she did not wish to frighten him. The RAD agreed, dismissing Mr. Ajarmah's arguments, which included a number of other proposed explanations for the discrepancies. The RAD adopted the

RPD's reasoning that the couple were in regular communication, and that it was reasonable to expect they would have discussed any further threats related to the risk to the husband and to his asylum claim, even if they might have upset Mr. Ajarmah.

[25] Mr. Ajarmah argues that it was unreasonable for the RAD to dismiss the explanation that his wife did not want to frighten him. He argues that adverse credibility inferences should not be based on assumptions of North American cultural norms or behaviours, and that caution is required when assessing the norms and patterns of different cultures: *Aria v Canada (Citizenship and Immigration)*, 2013 FC 324 at para 12; *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 7. He also argues that the RAD's reliance on the different accounts regarding the family's movements in Irbid amounts to a "microscopic examination" of the evidence and an overzealous search for inconsistencies, which this Court has criticized: *Jamil v Canada (Minister of Citizenship and Immigration)*, 2006 FC 792 at para 24, citing *Attakora v Canada (Minister of Employment and Immigration)*, [1989] FCJ No 444 (CA) (at para 10).

[26] I cannot agree with either contention. Again, these arguments were not put before the RAD, so the RAD had no opportunity to consider, for example, whether cultural differences might explain why Mr. Ajarmah's wife did not tell him something highly relevant to both his risk of return to Jordan and his claim for asylum. As noted above, an application for judicial review is not generally an opportunity to raise new arguments or to fault a decision maker for not considering issues that were not before them. Further, Mr. Ajarmah was unable to point to any

particular cultural differences that might explain his wife's conduct, or any evidence, either in the Ajarmahs' testimony or elsewhere in the record, regarding such differences.

[27] The general proposition Mr. Ajarmah cites, that caution is necessary in drawing credibility inferences based on conduct that might be explained by cultural differences, is undeniable. However, mere reference to the possibility of different cultural norms or behaviours is not an automatic ground of review nor an explanation for every inconsistency in evidence. While the need to consider the cultural context informs the RAD's ability to draw credibility inferences based on implausibilities, common sense, and rationality, it does not nullify it: *Cooper v Canada (Citizenship and Immigration)*, 2012 FC 118 at paras 3–4, citing *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 at paras 10–12 and *Hilo v Canada (Minister of Employment and Immigration)*, [1991] FCJ No 228.

[28] Nor do I accept that the RAD's assessment of the differences between the witnesses' testimony on these points was overly microscopic. The issues in question, which related to the family's movements and the existence of ongoing threats, were directly relevant to the allegations that the family had fled Zarqa out of fear and that Mr. Ajarmah faced an ongoing risk of harm. It was reasonable for the RAD to conclude that the inadequately explained inconsistencies on these issues contributed to the overall credibility concerns raised regarding Mr. Ajarmah's claim.

(3) Agents of harm

[29] The RPD found the evidence regarding the agents of harm to be vague, evasive, incoherent, and internally inconsistent. The RPD cited various aspects of Mr. Amarjah's BOC narrative, statutory declaration, and testimony regarding his brother's gang and the individuals who had taken him away and detained him. It also referred to Mr. Amarjah's differing accounts of whether the police had asked him for money. The RPD concluded that it was unclear who demanded what from Mr. Amarjah, on what date, what exactly occurred, who Mr. Amarjah feared, and for what reason.

[30] On appeal, the RAD noted that it had difficulty understanding Mr. Amarjah's argument with respect to these findings, but did its best to respond to this argument. It ultimately adopted the RPD's reasons as its own and agreed that the evidence was vague, at times inconsistent, at times incoherent and evasive.

[31] Mr. Amarjah argues that the RPD's reasons, adopted by the RAD, amounted to no more than a recitation of the evidence followed by a bald conclusion, without analysis or reasons. I disagree. While the RPD, and consequently the RAD, could have provided greater detail in their analysis of the evidence, I agree with the Minister that the RPD's conclusions flow from the evidence presented. In other words, the RPD's analysis lies, in part, in its selection and presentation of particular portions of the evidence to highlight the vagueness, inconsistency, and evasiveness in the responses. In the context of the evidence presented and the RAD's conclusions, and recognizing that an administrative decision is not held to a standard of

perfection, I am satisfied that the RAD adequately explained its conclusions on this issue through its adoption of the RPD's reasons: *Vavilov* at para 91.

[32] Nor was it an error for the RAD to adopt the RPD's reasons, as Mr. Ajarmah contends. The RAD is an administrative appellate body that sits in review of the RPD's decisions and reasons, and considers the arguments put forward by the appellant. Provided the RAD's reasons show that it has performed its role of undertaking an independent analysis of the record to determine whether the RPD erred, it is not unreasonable for the RAD to adopt the RPD's reasoning and analysis of an issue as its own: *Huruglica v Canada (Citizenship and Immigration)*, 2016 FCA 93 at para 103; *Rehman v Canada (Citizenship and Immigration)*, 2022 FC 783 at paras 63–65, citing *Gomes v Canada (Citizenship and Immigration)*, 2020 FC 506 at para 35. A review of the RAD's decision amply shows that it performed its role and I see no error in its adoption of the RPD's reasoning on this issue, particularly in the context of the submissions before it on the point.

(4) Treatment of the documentary evidence

[33] Finally, Mr. Amarjah argues that it was unreasonable for the RAD to conclude that the supporting documents filed did not overcome the identified credibility concerns. In particular, he argues that the RAD unreasonably criticized the documents for what they did not say, rather than evaluating them for what they did say. I cannot agree.

[34] The documents in question consisted of a medical report from a hospital visit in June 2019, and brief emails from each of Mr. Amarjah's wife, son, and friend. I note that the

brief email from Mr. Amarjah's wife simply speaks to the same issues that she spoke to during her testimony at the RPD hearing, such that it cannot truly be considered a "corroborative" document as that term is usually used. In any event, as the RPD noted, Mr. Amarjah's wife's provided testimony was inconsistent with both Mr. Amarjah's testimony and her own email.

[35] I disagree that the RAD, which again adopted the reasoning of the RPD on the issue, erred in the manner argued by Mr. Amarjah. In assessing documents said to corroborate a claimant's story, it is reasonable for the RPD and the RAD to assess whether the contents of the documents do indeed speak to the factual allegations made by the claimant. The RPD did this, noting that none of the three emails corroborated the allegations regarding the incidents in May 2019. The RPD also noted that the medical report spoke only to the nature of Mr. Amarjah's injuries. The RAD reasonably adopted this analysis, indicating it had independently reviewed the documents and reached the same conclusions. Given that the documents did not speak directly to the incidents at the centre of Mr. Amarjah's claim that were the subject of adverse credibility findings, it was reasonable for the RAD to conclude that they did not overcome those findings.

#### IV. Conclusion

[36] I conclude that Mr. Amarjah has not met his onus to establish that the RAD's decision was unreasonable. This application for judicial review is therefore dismissed.

[37] Neither party proposed a question for certification; I agree that no question meeting the requirements for certification arises in the matter.

**JUDGMENT IN IMM-2047-22**

**THIS COURT'S JUDGMENT is that**

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

---

Judge



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

**DOCKET:** IMM-2047-22

**STYLE OF CAUSE:** DEYA ABDULLAH AMRO AJARMAH v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** FEBRUARY 5, 2024

**JUDGMENT AND REASONS:** MCHAFFIE J.

**DATED:** APRIL 26, 2024

**APPEARANCES:**

Seonghee Cho FOR THE APPLICANT

Asha Gafar FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario