

Federal Court



Cour fédérale

**Date: 20240704**

**Docket: IMM-3655-23**

**Citation: 2024 FC 1052**

**Toronto, Ontario, July 4, 2024**

**PRESENT: The Honourable Mr. Justice Southcott**

**BETWEEN:**

**THI TUYET LAN VU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] This is an application for judicial review of a decision, dated February 21, 2023 [the Decision], by the Refugee Appeal Division [RAD], affirming the decision of the Refugee Protection Division [RPD] that the Applicant is neither a Convention refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[2] As explained in greater detail below, this application for judicial review is dismissed, because the Applicant's arguments do not undermine the reasonableness of the Decision.

## II. Background

[3] The Applicant is a citizen of Vietnam who claims fear of persecution by the Vietnamese authorities because of her religion as a practicing Roman Catholic.

[4] The Applicant's parents were Catholics, she was baptized into the Catholic faith, and she had previously attended church services in a congregation of several hundred people.

[5] The Applicant claims that in 2019 she joined a house church with a congregation of 12, which operated at two locations as a safety precaution. She claims that in May 2019 the Vietnamese government began aggressively pursuing house churches.

[6] In June 2019, the Applicant travelled to Canada to visit her daughter. The Applicant attended church services and appreciated the religious freedom in Canada.

[7] In September 2019, the Applicant returned to Vietnam. She claims that she continued to attend services at the house church and that, in response to the persecution of Catholics by Vietnamese authorities, the Applicant's house church prepared leaflets that they left in some public areas overnight.

[8] In December 2019, the Applicant returned to Canada. She claims that in mid-December she learned that two of her friends had been arrested for distributing the leaflets against religious

persecution. The Applicant also learned from her husband that the police came to their home in Vietnam, asking about her and accusing her of “polluting others with foreign religious ideology.” She told members of her church in Canada of these arrests, and they advised the Applicant to make a refugee claim.

[9] The Applicant applied for refugee protection in February 2020. Following her hearing, the RPD rejected the Applicant’s claim on August 16, 2022, finding that she was not credible and that her fear of religious persecution was not objectively justified based on the country documentation. She appealed the RPD’s decision to the RAD, which dismissed her appeal in the Decision that is the subject of this application for judicial review.

### III. Decision

[10] The RAD accepted that the Applicant is a practicing Roman Catholic, but it found her testimony confusing, inconsistent, and evolving.

[11] In considering the Applicant’s testimony at the RPD hearing, the RAD noted that, when the RPD asked the Applicant about the term “house church”, she appeared to be unaware of the term, despite using it in her Basis of Claim [BOC] narrative. The RAD found she provided confusing and evolving testimony. The RAD also considered the Applicant’s testimony that there were no barriers from the government to joining house churches, in contrast to her BOC narrative which stated the government put up notices for reporting house church activities and that the Applicant’s group reduced how often they met.

[12] The RAD found the Applicant also gave conflicting answers about the house church being destroyed, stating in her BOC that it occurred in July 2019 when she was in Canada, but stating at the RPD hearing that it occurred in May 2019 while she was still in Vietnam. The RAD also found the Applicant provided conflicting evidence about the alleged government persecution of her house church, telling the RPD panel that they were threatened by security, although she made no reference in her BOC to her particular group being threatened until after she left for Canada in December 2019.

[13] The RAD agreed with the RPD's finding that the Applicant could not provide a consistent account of her house church and what happened to them, and it agreed with the RPD's finding that the Applicant was not a member of a house church.

[14] The RAD next considered whether the Applicant was sought by the police. Upon an independent assessment of the evidence, the RAD found the Applicant provided inconsistent testimony about the events leading to the police seeking her out, as well as unreasonable explanations for her failure to provide corroboration from her husband, when it was her evidence that the couple were in regular contact.

[15] At the RPD hearing, the Applicant first testified as to not experiencing any barriers to practicing, but she later testified that her group of practitioners was told many times to stop practicing in May. Also, that assertion was not included in her BOC narrative. The RAD found that this omission and contradiction undermined her credibility.

[16] The RAD considered that the Applicant was unable to say when the police came to her home and asked her husband about her, indicating it was around Christmas. The RAD also noted the Applicant's evidence that the leader of the district came to her house asking her husband about her again, which allegation was not included in her BOC narrative. The Applicant also testified that her church group would meet at her house, which again was not included in her BOC narrative. The Applicant explained she did not include this in her BOC narrative because it was normal for group members to go between members' houses, but the RAD found this was another important omission.

[17] Against that backdrop, the RAD considered the Applicant's failure to provide corroboration from her husband. The RPD had asked the Applicant how often she is in contact with her husband, and she responded by saying they often communicate through messenger, repeating that explanation when asked why she did not call her husband as a witness for the hearing. The RAD agreed with the RPD that the Applicant's failure to call her husband as witness or provide a statement from him undermined her credibility related to her allegations of being sought by the police.

[18] While the RPD drew a negative credibility inference from the lack of evidence such as copies of the leaflets or corroboration by other practitioners, the RAD accepted that the Applicant may not be able to provide such corroboration based upon concerns of safety and security.

[19] The RAD did not agree with the Applicant's submission that her omissions were minor, but found, rather, that the omissions and contradictions went to the heart of her claim,

particularly related to practicing her religion in unsanctioned ways, participating in activities against the government, and being sought for those activities.

[20] The RAD found there was insufficient credible evidence to establish that the police are seeking out the Applicant, that she was a member of a house church, or that members of her house church were arrested and/or detained. The RAD concluded the Applicant was unable to provide a consistent account of her activities, including where and when her group met, and had failed to provide corroboration where she reasonably could. It found on a balance of probabilities that she was lacking in credibility with respect to her involvement in an unsanctioned house church.

[21] Finally, the RAD considered whether the Applicant faced a risk as a practicing Roman Catholic. The RAD found the RPD correctly assessed the Applicant's objective risk by considering the evidence on the treatment of religious practitioners in Vietnam. The RAD found that, while there is evidence in the National Documentation Package [NDP] on the persecution and limiting of certain religious groups and practices, the Applicant's profile is not one that suggests that she faces a serious possibility of persecution or that, on a balance of probabilities, she faces a risk to her life, risk of cruel and unusual treatment or punishment, or risk of torture.

[22] In conclusion, the RAD dismissed the appeal and confirmed the decision of the RPD that the Applicant is neither a Convention refugee nor a person in need of protection.

#### IV. Issues

[23] The Applicant articulates the following issues for the Court's determination:

- A. Did the RAD err in upholding the RPD's finding that the Applicant was not credible?
  
- B. Did the RPD err in its assessment of the risk the Applicant faces as a practising Roman Catholic?

[24] In considering these issues, the Decision is reviewable on the reasonableness standard (see *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25).

V. Analysis

A. *Did the RAD err in upholding the RPD's finding that the Applicant was not credible?*

- (1) House church activities

[25] In challenging the reasonableness of the RAD's adverse credibility conclusions, the Applicant places considerable emphasis on its assessment of her testimony about her house church attendance, arguing that the RAD improperly performed a microscopic examination of her evidence.

[26] As noted earlier in these Reasons, the RAD noted that, despite using the term "house church" in her BOC, her testimony indicated that she was unfamiliar with the term. The Applicant emphasizes her lack of education and sophistication, including her lack of understanding of English and the use of an interpreter to prepare her BOC, as well as the fact that she was anxious during the hearing. She draws the Court's attention in particular to her testimony to the effect that, in addition to attending an official church, she would separately

gather with a group of friends to pray. She argues that this evidence is entirely consistent with the meeting typically ascribed to the term “house church” in refugee proceedings and submits the RAD unreasonably impugned her credibility based on her lack of familiarity with that term.

[27] However, the RAD took into account the Applicant’s explanation that she needed an interpreter’s help with the BOC narrative. While the RAD noted her unfamiliarity with the term that she used in her BOC, I agree with the Respondent’s submission that the RAD’s conclusion she provided confusing and evolving testimony about her house church was not based principally upon her lack of unfamiliarity with the term but rather was based upon her evolving and inconsistent evidence.

[28] For instance, the Applicant inconsistently testified that there were no barriers to her group’s practice but also that they were forbidden from gathering. Moreover, when providing this explanation, she referred to a church having been destroyed in May 2019 (when she was still in Vietnam), although her BOC described this event as having occurred in July 2019 (when she was in Canada). The Applicant also described her group having been threatened in the course of these events, even though her BOC made no reference to her group being threatened until after she had left for Canada the second time in December 2019.

[29] I find nothing unreasonable in the RAD’s reliance on these inconsistencies and omissions, and its characterization of the Applicant’s testimony as evolving, in support of its credibility concerns with her testimony related to house church activities. Nor do I find merit to



the Applicant's arguments that the RAD should have concluded these features of her evidence to be attributable to her lack of education or sophistication.

(2) Police inquiries

[30] The Applicant also submits that the RAD erred in failing to consider and accept her explanation as to why she did not provide corroborative evidence from her husband related to the police inquiring about her. She notes that, in response to the RPD's question why she did not make any efforts to get even a letter from him, she testified that her husband was worried that he would get in trouble if the government knew that he still had contact with her.

[31] However, in considering the Applicant's submissions surrounding the lack of corroborative evidence, the RAD explained that it was the Applicant's evidence that she was in regular contact with her husband. I agree with the Respondent's argument that this reasoning demonstrates the RAD rejected the Applicant's explanation for the lack of corroborative evidence, as her husband's continued contact with her was inconsistent with the suggestion that fear of such contact prevented him from providing corroboration.

(3) Omissions

[32] Noting that the RAD made adverse credibility findings as a result of elements of the Applicant's testimony that were omitted from her BOC, she argues that the omitted information merely added detail to the allegations in her BOC. As such, relying on the principle that a BOC is not intended to be an encyclopedic recitation of the evidence (see *Feradov v Canada*

(*Citizenship and Immigration*), 2007 FC 101 at paras 18-19), the Applicant argues that the RAD erred by impugning her credibility based on omissions that were not central to her claim.

[33] I accept the principle upon which the Applicant relies. However, I note that she advanced the same argument before the RAD, which disagreed with her submission and concluded that the omissions and contradictions in her evidence went to the heart of her claim, specifically related to her practising her religion in unsanctioned ways, participating in activities against the government, and being sought for those activities. I find nothing unreasonable in this characterization of the omissions on which the RAD relied in concluding that there was insufficient credible evidence to support the Applicant's allegations.

B. *Did the RPD err in its assessment of the risk the Applicant faces as a practising Roman Catholic?*

[34] At the conclusion of its Decision, the RAD considered and upheld the RPD's analysis of whether the Applicant faced risk as a result of her residual profile, as a practising Roman Catholic in Vietnam. In arguing in the present application that this analysis was unreasonable, the Applicant repeats the submissions advanced before the RAD, that the assessment of her risk as a practising Roman Catholic was unreasonable because, due to erroneous credibility findings, the analysis omitted the features of her profile arising from her house church practice and opposition to the government.

[35] Like the RAD, I have rejected the Applicant's argument that the previous decision-maker's credibility findings were made in error.

[36] The Applicant's submissions before the Court also reference items of the NDP. To the extent these submissions are to be read as an argument that the RAD erred in applying the country condition evidence to the Applicant's residual profile (*i.e.*, her profile without the impugned house church involvement and related anti-government activities), I agree with the Respondent's position that, as the Applicant did not challenge the RPD's analysis of the objective evidence in her appeal to the RAD, those issues cannot now be raised in this judicial review (see, e.g., *Singh v Canada Citizenship and Immigration*), 2023 FC 636 at para 15).

## VI. Conclusion

[37] As I have rejected the Applicant's arguments challenging the reasonableness of the Decision, this application for judicial review must be dismissed. Neither party proposed any question for certification for appeal, and none is stated.

**JUDGMENT IN IMM-3655-23**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

No question is certified for appeal.

"Richard F. Southcott"

---

Judge

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

**DOCKET:** IMM-3655-23

**STYLE OF CAUSE:** THI TUYET LAN VU v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 3, 2024

**JUDGMENT AND REASONS:** SOUTHCOTT J.

**DATED:** JULY 4, 2024

**APPEARANCES:**

Seyfi Sun FOR THE APPLICANT

Andrea Mauti FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Lewis & Associates FOR THE APPLICANT  
Barristers & Solicitors  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario