Federal Court  Cour fédérale

Date: 20240801

Docket: IMM-367-22

Citation: 2024 FC 1227

Ottawa, Ontario, August 1, 2024

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

SURAFEL BEKELE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Bekele applied to sponsor his wife, Ms. Negash, for permanent residence. The Immigration Appeal Division [IAD] of the Immigration and Refugee Board dismissed his application because it found that the marriage was not genuine and was entered into for the purposes of gaining immigration status. Mr. Bekele now seeks judicial review of that decision. I am dismissing his application because the IAD reasonably assessed the evidence and did not commit the errors alleged by Mr. Bekele.

I. Background

[2] Mr. Bekele was born in Ethiopia and later obtained Canadian citizenship. In 2017, on a trip to Addis Ababa, he met Ms. Negash, a citizen of Ethiopia. They remained in contact after he returned to Canada. They state that after a number of months, their relationship became romantic. Mr. Bekele returned to Ethiopia in September 2018 and proposed to Ms. Negash. They agreed to marry in April 2019.

[3] Before the IAD, Mr. Bekele and Ms. Negash testified that they intended to marry on April 17 or 19, 2019, and to hold a reception a day or two later. These plans did not materialize because Ms. Negash's uncle, who was a father-like figure to her, died on April 18. The reception was cancelled. They signed their civil marriage certificate on May 3, 2019, with a handful of relations in attendance.

[4] The IAD found that the marriage was not genuine. It noted the confusion in Mr. Bekele's and Ms. Negash's testimonies regarding the dates of the marriage and the reception. It also underlined that they gave conflicting testimony as to who was in attendance at the signing ceremony. According to the IAD, they would have been expected to provide written evidence of the reservations made for the reception and its cancellation. The IAD also questioned the fact that they went for a two-day "honeymoon" even though she was mourning her uncle. Lastly, the IAD noted that they did not have detailed knowledge of each other's lives and that they had limited knowledge of each other's extended family.

[5] Mr. Bekele now seeks judicial review of the IAD's decision. His application was initially heard by Justice Elliott. After she resigned from this Court, the Chief Justice reassigned the matter to me. The parties agreed that I would decide the matter after reviewing the record and listening to the recording of the hearing before Justice Elliott.

II. Analysis

[6] This application raises exclusively factual issues. On judicial review, the Court will only overturn factual findings if the applicant shows that "the decision maker has fundamentally misapprehended or failed to account for the evidence before it": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paragraph 126, [2019] 4 SCR 653.

[7] At the most general level, Mr. Bekele argues that the IAD disregarded the bulk of his and Ms. Negash's evidence and instead focused on secondary details to impugn their credibility. The record does not contain a transcript of their evidence before the IAD. As a result, I am left to assess the IAD's findings based on the reasons it gave and the documentary evidence in the record.

[8] The IAD highlighted several valid reasons for doubting Mr. Bekele's and Ms. Negash's credibility, including contradictions regarding who was in attendance at the ceremony, their lack of detailed knowledge of each other's lives and the lack of knowledge of their extended families. While Mr. Bekele takes issue with these findings, I am not persuaded that they are unreasonable. Even though the evidence revealed some degree of knowledge of each other's lives or some

connection with each other's families, the IAD could reasonably find that what the evidence revealed raised concerns regarding the genuineness of the relationship.

[9] Mr. Bekele argues that the IAD should have analyzed the evidence favourable to him instead of focusing on secondary details. He underscores the fact that he and his wife testified for five hours and that most of it was consistent. The IAD, however, was not required to address each piece of evidence separately, as long as one can understand why it ruled against Mr. Bekele. It is true that a decision-maker may be required to address explicitly a piece of evidence that "appears squarely to contradict" a finding of fact: *Cepeda-Gutiérrez v Canada (Minister of Citizenship and Immigration)* (1998), 157 FTR 35 at paragraph 17. None of the evidence that Mr. Bekele referred to squarely contradicts the IAD's findings. Nor was the evidence mentioned by the IAD "secondary." Issues such as knowledge of each spouse's life or family are central to the determination of the genuineness of a marriage. The fact that the hearing lasted five hours has no bearing on credibility.

[10] Mr. Bekele also challenges more specific aspects of the IAD's decision. I now turn to these submissions.

[11] First, Mr. Bekele argues that the IAD erred in requiring corroboration, in particular with respect to the marriage reception and its cancellation. Where an applicant's credibility is in doubt for independent reasons, however, a decision-maker can inquire as to whether the applicant's assertions are corroborated by independent evidence. This is what happened here. For the reasons summarized above, the IAD had concerns about Mr. Bekele's and Ms. Negash's

credibility. It was thus entitled to take into account the lack of any documentation to corroborate the planned reception and its cancellation.

[12] Second, Mr. Bekele argues that the IAD erred in making implausibility findings, in particular with respect to the two-day "honeymoon." According to well-established case-law summarized in *Al Dya v Canada (Citizenship and Immigration)*, 2020 FC 901 at paragraphs 24–43, a decision-maker may reject evidence as being implausible

> . . . if the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the claimant.

[13] Here, however, the IAD did not simply find it implausible that Mr. Bekele and Ms. Negash went on a honeymoon barely two weeks after the passing of Ms. Negash's uncle. Rather, the IAD noted that Mr. Bekele contradicted himself, initially calling the two-night stay as a honeymoon, and then stating that it was not a honeymoon. Evolving testimony may affect credibility quite apart from the implausibility of the events recounted. In any event, the IAD wrote that this issue "further confused the wedding narrative," which suggests that it was not determinative. Hence, the manner in which the IAD dealt with this issue does not render the decision unreasonable.

[14] Third, Mr. Bekele argues that the IAD should have accepted that Ms. Negash's failure to inquire about the condition of his eye (he is almost blind in one eye) can be explained by Ethiopian cultural norms. In this regard, he states that Ms. Negash is a "traditional woman." He criticizes the IAD for requiring documentary evidence of Ethiopian cultural norms.

[15] There is no doubt that decision-makers should be sensitive to the cultural context. Evidence of the cultural context may be found not only in country condition evidence. The parties may provide their own evidence in this regard. Therefore, the IAD's rejection of Mr. Bekele's submissions because of a lack of documentary evidence may raise questions.

[16] Nevertheless, the IAD's statement must be read in its context. The IAD gave a paragraph-long description of various aspects of Mr. Bekele's and Ms. Negash's lives about which they lacked knowledge. The last item in this list is the fact that when Ms. Negash was asked about Mr. Bekele's health, she initially answered that he has headaches, and when asked again, she said that she "had noticed something in his eye but did not want to embarrass him by asking." Then the IAD states that Mr. Bekele argued that this lack of inquiry is compatible with Ethiopian cultural norms. While I do not have the transcript of the hearing, I understand this to mean that, in oral submissions, counsel put forward this argument to try to explain Ms. Negash's evolving testimony and that no one actually gave evidence regarding cultural norms.

[17] Therefore, the IAD's statement about the lack of documentary evidence does not affect the chain of reasoning of the decision, because there was no evidence at all, documentary or otherwise. Mr. Bekele bears the burden of proof, including on the cultural norms issue: *Kusi v Canada (Citizenship and Immigration)*, 2021 FC 68 at paragraph 17. I would add that Mr. Bekele did not point to any evidence buttressing his bare statement that Ms. Negash is a "traditional woman," and the record does not allow me to draw this inference myself.

[18] In sum, the IAD reasonably dealt with Mr. Bekele's submissions regarding Ethiopian cultural norms.

III. Disposition

[19] For these reasons, Mr. Bekele's application for judicial review will be dismissed.

JUDGMENT in IMM-367-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question is certified.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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