

Federal Court



Cour fédérale

Date: 20161006

Docket: IMM-277-16

Citation: 2016 FC 1121

Ottawa, Ontario, October 6, 2016

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

RHOLEX AWAP YONG N'KULY

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review, pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, of the decision of the Refugee Protection Division of the Immigration and Refugee Board (RPD), dated December 23, 2015, which found that he was not a Convention refugee or a person in need of protection.

[2] The RPD found that the Applicant was not credible with respect to his claim that he is at risk of persecution in the Democratic Republic of Congo (DRC) based on imputed political opinion. The RPD also rejected the Applicant's claim that he was harassed, threatened and kidnapped for refusing to accept an artistic commission from DRC government officials in 2009.

[3] On judicial review, the Applicant argues that the RPD's credibility findings are unreasonable. Specifically, the Applicant argues the RPD erred by: making plausibility findings without specific reference to the evidence to support such findings; making an overall credibility finding before independently assessing his corroborative evidence; discounting the psychiatrist's report; and, failing to address his claim that he was kidnapped by authorities in 2013.

[4] For the reasons elaborated upon below, I find that the RPD did not err and the credibility findings are reasonable. As a result, the application for judicial review is dismissed.

I. Background

[5] The Applicant, a citizen of the DRC, left the DRC on October 17, 2014, for the United States (US) on a student visa. He married a resident of Canada while in the US in February 2015. He withdrew his claim for asylum in the US and, after arriving in Canada, claimed refugee protection on September 22, 2015.

[6] The Applicant recounts in his Basis of Claim (BOC), and in his testimony to the RPD, that he is a well-known artist in the DRC. In 2009, government officials offered him a commission for an art project to honour the 50th anniversary of the DRC and to promote the

vision of President Joseph Kabila. He refused because he viewed the commission as political activity, which is contrary to his religious beliefs as a Jehovah's Witness. He claims his refusal to accept the commission was regarded as a signal of his opposition to the Kabila regime and that government officials targeted and harassed him with threatening phone calls for the following two years.

[7] The Applicant recounts that, on January 3, 2012, he was pulled from a bus, questioned about his political beliefs, tortured, and then released by the Agence nationale de renseignements (ANR). He claims he was kidnapped by the ANR a second time in May 2013 and was released the following morning. He also claims that he feared for his safety during Operation Likofi and took refuge at his aunt's home in the suburbs from February 2014 until he departed for the US in October 2014.

II. The RPD Decision

[8] The RPD found that the Applicant was not credible due to contradictions and inconsistencies in his evidence. The RPD also noted that his testimony lacked detail requiring the RPD to probe the key aspects of his claim.

[9] The RPD found that the Applicant's account of his alleged kidnapping on January 3, 2012, was not credible. The RPD found it difficult to accept that the Applicant's refusal of an artistic commission in 2009, resulted in an anti-political profile, noting that he had never participated in anti-Kabiliste activities in the past. The RPD also found it difficult to accept that the ANR would wait until 2012 to kidnap him, only to release him the same day.

[10] The RPD found that the medical certificate describing the injuries the Applicant claimed to have suffered as a result of the 2012 kidnapping was not genuine. Specifically, the certificate was a pre-prepared form; it was not personally signed by the treating doctor; the signature stamp bore the name of a different doctor; the certificate was dated January 3, 2012, but stated that treatment was provided from January 3-17, 2012; and, it authorized 30 days of medical leave. The RPD noted that the use of a false medical certificate resulted in a negative inference regarding the Applicant's general credibility.

[11] The RPD concluded that the Applicant had not been kidnapped by the ANR in 2012 and was not being sought for his imputed political profile as anti-Kabiliste.

[12] The RPD also noted that the Applicant worked in the offices of a member of the Kabila party, despite his claim that he could not leave his family home out of fear for his safety. The RPD rejected his explanation that his work was not political and that the politician he worked for was unaware of his problems with the ANR. The RPD found that the Applicant's conduct demonstrated that he did not fear persecution by reason of his imputed political opinion and that he was not being sought by government authorities.

[13] Based on inconsistencies in the Applicant's testimony, the RPD did not believe that the Applicant was personally sought by the authorities during Operation Likofi. Operation Likofi began in November 2013. The Applicant testified that he went into hiding because his former colleague had been killed by the police in the Applicant's neighbourhood in November 2013. However, the Applicant did not leave his home and take refuge with his aunt until February

2014. The RPD noted that if he had been in danger, he would have fled earlier. The RPD again concluded that the Applicant was not personally sought by the authorities during this period due to an imputed anti-Kabiliste profile.

[14] The RPD also noted inconsistencies in the Applicant's testimony regarding his delay in leaving the DRC.

[15] With respect to the Applicant's corroborating documents, the RPD gave little weight to the letters from the Applicant's brother, aunt, and cousin, noting that these letters did not contain additional evidence in support of his claims. The RPD found that two arrest warrants, allegedly served at the Applicant's home in February and May 2015, were not genuine. In particular, the warrants did not indicate a location where the Applicant was required to present himself, the February warrant was not properly dated, and neither warrant complied with the form and content of such warrants in the DRC.

[16] The RPD noted that the Applicant speculated the warrants were issued because one of his drawings, which could be perceived as anti-Kabiliste, was entered into a contest via Facebook. The RPD found that the Applicant provided no details about the contest and that the drawing would not likely have come to the attention of the authorities based on a Facebook transmission. The RPD concluded that the arrest warrants were not genuine and the Applicant had not been sought by government authorities in the past, nor was he being sought at present.

[17] The RPD acknowledged Dr. Thirlwell's psychiatric report, noting that it described the same allegations set out in the Applicant's BOC. The RPD discounted Dr. Thirlwell's conclusion that the Applicant was a credible historian, but took into account Dr. Thirlwell's opinion that the Applicant's mental condition could affect the delivery of his testimony. The RPD ultimately found that the Applicant provided his testimony without difficulty.

[18] The RPD concluded that the Applicant had not established a well-founded fear of persecution due to his imputed political opinion. The RPD also found that he was not a person in need of protection.

III. The Issues

[19] The only issue is whether the RPD's credibility findings are reasonable. The Applicant raises four arguments to support his position that the credibility findings are unreasonable. The Applicant argues that:

- i. the RPD erred by making credibility and plausibility findings without specific reference to the evidence to support such findings;
- ii. the RPD erred by failing to consider and independently assess the corroborative evidence before making an overall credibility finding;
- iii. the RPD erred in its treatment of the psychiatrist's report, which should have informed the RPD's credibility findings; and,
- iv. the RPD failed to address his allegation that he was kidnapped a second time in 2013 and, as a result, this allegation must be accepted as true.

IV. The Standard of Review and Relevant Principles Regarding Credibility

[20] The standard of review of issues of fact—including credibility—and mixed fact and law, is reasonableness. The RPD’s decision should be given deference as long as the decision “falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law” (*Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 53, 55, [2008] 1 SCR 190; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59, [2009] 1 SCR 339).

[21] Boards and tribunals, such as the RPD, are best placed to assess credibility (*Aguebor v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 732 (QL) at para 4, 160 NR 315 (FCA)) and their credibility findings should be given significant deference (*Lin v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1052 at para 13, [2008] FCJ No 1329 (QL); *Fatih v Canada (Minister of Citizenship and Immigration)*, 2012 FC 857 at para 65, 415 FTR 82; *Lubana v Canada (Minister of Citizenship and Immigration)*, [2003] FCJ No 162 (QL) at para 7, 228 FTR 43).

[22] As the Respondent notes, the relevant principles with respect to credibility assessments were summarized by Justice Donald Rennie in *Cooper v Canada (Minister of Citizenship and Immigration)*, 2012 FC 118 at para 4, [2012] FCJ No 135 (QL).

[23] Justice Mary Gleason provided a similar summary in *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319 at paras 41-46, [2012] FCJ No 369 (QL) [*Rahal*].

Justice Gleason first highlighted the Court's very limited role in reviewing credibility findings at para 42:

[42] First, and perhaps most importantly, the starting point in reviewing a credibility finding is the recognition that the role of this Court is a very limited one because the tribunal had the advantage of hearing the witnesses testify, observed their demeanor and is alive to all the factual nuances and contradictions in the evidence. Moreover, in many cases, the tribunal has expertise in the subject matter at issue that the reviewing court lacks. It is therefore much better placed to make credibility findings, including those related to implausibility. Also, the efficient administration of justice, which is at the heart of the notion of deference, requires that review of these sorts of issues be the exception as opposed to the general rule. As stated in *Aguebor* at para 4:

There is no longer any doubt that the Refugee Division, which is a specialized tribunal, has complete jurisdiction to determine the plausibility of testimony: who is in a better position than the Refugee Division to gauge the credibility of an account and to draw the necessary inferences? As long as the inferences drawn by the tribunal are not so unreasonable as to warrant our intervention, its findings are not open to judicial review...

(See also *Singh* at para 3 and *He v Canada (Minister of Employment and Immigration)*, 49 ACWS (3d) 562, [1994] FCJ No 1107 at para 2).

[24] In summary, although the credibility findings of first instance decision-makers are owed significant deference, such credibility findings are not immune from review. Credibility findings may be found to be unreasonable when, for example, inconsistencies or omissions relied on to draw adverse inferences are insignificant or result from microscopic examination, explanations are unreasonably discounted, or relevant information is not considered.

[25] With respect to adverse credibility findings based on implausibility, Justice Gleason noted in *Rahal* (at para 44) that, although the sworn testimony of an applicant is presumed to be true in the absence of contradiction, testimony may reasonably be rejected if the RPD finds it to be implausible. However, a finding of implausibility must be rational, sensitive to cultural differences, and clearly expressed.

[26] In *Zacarias v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1155, [2012] FCJ No 1252 (QL), Justice Gleason reviewed the jurisprudence on plausibility findings and (at para 11) reiterated the principle in *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 7 [*Valtchev*] that an allegation may be found to be implausible when it does not make sense in light of the evidence or when “the facts as presented are outside the realm of what could reasonably be expected.” Further, the RPD should provide an evidentiary base against which the plausibility of an applicant’s evidence may be judged.

[27] My assessment of the reasonableness of the RPD’s credibility and plausibility findings has been guided by these principles.

V. Are specific credibility and plausibility findings unreasonable?

[28] The Applicant disputes the RPD’s finding that government agents would not have targeted him for refusing to accept an artistic commission celebrating the 50th anniversary of the DRC. The Applicant argues that this was a political event, and it is more likely than not that his refusal was regarded as political opposition.

[29] The Applicant also disputes the RPD's plausibility finding that it made no sense for the ANR to kidnap and immediately release him two years after he refused the commission.

According to the Applicant, this ignores the evidence that he received threatening calls in the intervening period. He adds that the RPD erred in looking for rationality in the ANR's actions.

[30] The Applicant further argues that the RPD's finding that the medical certificate is fraudulent is based on speculation about how such certificates should be written.

[31] The Respondent submits that the RPD reasonably doubted the plausibility of the Applicant's claim that he was harassed for two years following his refusal to take the artistic commission, and the claim that authorities waited two years to kidnap him—although they knew his whereabouts—only to promptly release him.

[32] With respect to the medical certificate, the Respondent submits that the RPD reasonably found it was fraudulent and clearly explained why. As a result, the medical certificate failed to corroborate the Applicant's account of the 2012 kidnapping, which is central to his claim. The Respondent also notes that the RPD determined the medical certificate was not genuine before it made its credibility finding.

[33] The Respondent points out that the Applicant has not taken issue with the RPD's other credibility findings, including that he was not sought by the authorities during Operation Likofi, that he waited until February 2014 to take refuge with his aunt (despite his claim that a friend

had been killed in November 2013), and that he claimed to be a successful artist in the DRC yet lacked the resources to leave the DRC at an earlier date.

The specific credibility and plausibility findings are reasonable

[34] I find that the RPD's specific credibility findings are reasonable and arise from the Applicant's inconsistent testimony, as explained in the RPD's reasons. For example, the RPD noted: the Applicant's delay in seeking refuge with his aunt; his delay in leaving the country; his work for the government (despite his claim that he remained at home out of fear for his safety); the inconsistency between his testimony about the injuries he suffered in 2012 and the injuries described in the medical certificate tendered; and, the use of a false medical certificate.

[35] With respect to plausibility, the RPD is entitled to rely on rationality and common sense.

[36] Taking into account that the RPD should not impose Canadian norms and standards in assessing rationality (*Valtchev* at para 7), the RPD reasonably found that it was outside the realm of what could reasonably be expected for the Applicant to be kidnapped two years after his refusal to accept an artistic commission, only to be released almost immediately after explaining that he was an artist and not a political activist. The RPD also noted that there was no evidence that the Applicant had been involved in previous political activity that would have led to a political profile. The RPD did not ignore the allegations of threatening phone calls, but reasonably questioned why the ANR would do so over this long period, without taking any other action.

[37] Agreeing to work for the same government that is threatening your life is also outside the realm of what could be expected from a reasonable person. The RPD reasonably rejected the Applicant's explanation that his work was not political, as this was inconsistent with the claim that he was afraid to leave his home.

[38] The RPD provided non-speculative reasons for finding that the medical certificate was not genuine. In addition, the Applicant's testimony regarding his injuries was inconsistent with the description of injuries in the medical certificate and also revealed that the certificate was provided after he left the DRC. The RPD's finding that the certificate was not genuine is reasonable, as are the resulting adverse credibility findings regarding the Applicant's kidnapping and pursuit by authorities.

VI. Did the RPD err by not independently assessing the documents tendered as corroboration?

[39] The Applicant argues that his crucial corroborating evidence was dismissed because the RPD had already made up its mind that his allegations were not credible and that he had not been targeted by and was not wanted by the Congolese security forces and the ANR.

[40] The Applicant submits that his testimony is presumed to be true. Corroborative evidence must be considered and independently assessed when there is a reason to doubt credibility. Credibility findings should not be made until all the evidence is considered.

[41] The Applicant points to *Nkonka v Canada (Minister of Citizenship and Immigration)* (13 January 2016), Toronto IMM-2416-15 (FC) [*Nkonka*], where Justice Diner found that the RPD erred by rejecting two corroborative documents on the basis of its earlier credibility findings. Justice Diner stated that there is a greater onus on the RPD to assess corroborative evidence where credibility is at issue and that each piece of evidence requires an independent evaluation (at paras 7-8).

[42] The Applicant argues that the letters from his brother, aunt, and cousin corroborated different aspects of his claim, including the May 2013 kidnapping, the stay with his aunt, and his cousin's assistance in obtaining a passport. The Applicant submits that the RPD dismissed this evidence because it had already found his allegations lacked credibility.

[43] The Respondent submits that the corroborative evidence repeated the same allegations set out in the Applicant's BOC. The RPD had credibility concerns, assessed the corroborative documents, and explained why these did not resolve the credibility concerns.

The RPD assessed the corroborating documents before making final credibility findings.

[44] The RPD did not ignore or fail to assess the Applicant's corroborating documents. The RPD did not elaborate on the contents of the three letters but did assess them, albeit briefly, and explained why it attached little weight to them. It is not for the Court to re-weigh the evidence. The RPD reasonably found that none of the letters provided additional evidence to support the Applicant's claims, which the RPD already had reason to doubt.

[45] The letter from the Applicant's brother recounted the same events set out in the Applicant's BOC. The letter from the Applicant's aunt states that he stayed with her from February to October 2014 for safety reasons. This assertion was not the basis for a credibility finding. Rather, the RPD pointed to the fact that the Applicant waited until February 2014 to leave his neighbourhood, despite his claim that a colleague was killed in the same neighbourhood when Operation Likofi began in November 2013. The letter from the Applicant's cousin states that she worked for the government and contacted a colleague to assist the Applicant to obtain a passport. The RPD did not make any credibility findings regarding the Applicant's statement that he obtained a passport and visa to travel to the United States.

[46] The RPD found that the arrest warrants did not conform with authentic arrest warrants. The warrants did not provide a location for the Applicant to report and did not state the reason for his arrest. The RPD reasonably concluded that these arrest warrants could not corroborate the Applicant's allegation that he was wanted by the authorities for his imputed political opinion.

[47] I do not agree with the Applicant that *Nkonka* dealt with analogous facts. In *Nkonka*, the RPD clearly rejected or discounted a genuine arrest warrant and a notarized letter on the basis of previous credibility findings, without independently assessing the evidence (at paras 5, 8).

[48] In this case, the RPD made several discrete credibility findings before making an overall determination on credibility. First, the RPD found that the medical certificate was not genuine. Second, the Applicant's account of being kidnapped two years after his refusal to take a commission from the Government was found to be implausible. Finally, the Applicant's claim

that he remained at home out of fear for his safety was found to be inconsistent with his work for a member of the Kabila party, the agents of his alleged persecution.

[49] Based on these and other clear findings, the RPD questioned the Applicant's credibility and reasonably concluded that the Applicant did not have an imputed political opinion and was not sought by the authorities. None of these findings were addressed by or overcome by the documents submitted to corroborate his claims.

VII. Did the RPD err in its treatment of the psychiatric report?

[50] The Applicant argues that the RPD failed to properly consider Dr. Thirlwell's report and gave the report little weight because the RPD had already made negative credibility findings. The Applicant submits that the jurisprudence guides the RPD to consider the content of a psychiatric report before making a final credibility finding. The Applicant notes that the psychiatrist's report is not tendered in support of the facts underlying his refugee claim, but to establish his psychological state, which should inform the RPD's credibility findings (*Joseph v Canada (Minister of Citizenship and Immigration)*, 2015 FC 393 [*Joseph*]; *Mico v Canada (Minister of Citizenship and Immigration)*, 2011 FC 964 at paras 54-55).

[51] The Respondent submits that the opinion of the psychiatrist cannot usurp the fact finding role of the RPD (*Budakh v Canada (Minister of Public Safety and Emergency Preparedness)*, 2008 FC 363). The RPD clearly explained why it rejected Dr. Thirlwell's conclusions, which reflect the guidance from the jurisprudence. The RPD ultimately found that the Applicant was

able to testify without difficulty, despite Dr. Thirlwell's opinion that the Applicant may have difficulty expressing himself.

The RPD did not err in its assessment of the psychiatrist's report

[52] Dr. Thirlwell's report noted that she conducted one interview with the Applicant and that he had completed the Post-Traumatic Stress Disorder (PTSD) checklist. Dr. Thirlwell indicated that she had reviewed the Applicant's BOC and his clinical presentation was consistent with the details outlined in the BOC. She added that he was a traumatized man and a "credible historian."

[53] Dr. Thirlwell stated that the Applicant suffered from a major depressive disorder and exhibited signs of PTSD. Dr. Thirlwell summarized her findings, noting that:

During the hearing he may have difficulties expressing himself emotionally. He will likely display some of the PTSD symptoms described above, such as memory problems and possibly become emotionally flooded and /or emotionally shut down, causing him to have difficulty answering questions.

[54] The Applicant relied on several cases for the proposition that a psychological or psychiatric report must be considered before making credibility findings. However, all of this jurisprudence relates to the need to consider an applicant's state of mind, as it impacts on how an applicant provides his or her testimony, before making credibility findings based on inconsistencies, vagueness, improper sequencing, or omissions. That is not the situation in the present case.

[55] The RPD stated that it considered Dr. Thirlwell's opinion that the Applicant's mental condition could affect how he provided his testimony. The RPD found that he was able to provide his testimony without any apparent difficulty.

[56] In *Khatun v Canada (Minister of Citizenship and Immigration)*, 2012 FC 159, [2012] FCJ No 169 (QL), the applicant similarly argued that the RPD had failed to take the applicant's psychological state into account before it assessed credibility. Justice Russell noted at para 86 that:

Just because the Applicant may suffer from cognitive and psychological problems does not mean that credibility is not an issue or that all inconsistencies can be attributed to those problems. The RPD must still assess credibility, and provided it takes into account the evidence of cognitive or emotional impairment, the Court must be loath to interfere because the Court does not have the advantage of seeing and hearing the witness testify.

[57] Justice Russell added that a psychological report could not act as a cure-all for deficiencies in the applicant's evidence (at para 94).

[58] Although Dr. Thirlwell stated that PTSD could affect the Applicant's ability to provide his testimony, the RPD ultimately found that it did not do so. Despite the psychological report, the RPD was still required to assess the Applicant's credibility.

[59] The Applicant also relied on *Joseph*. In *Joseph*, the applicant had considerable difficulty giving her testimony and the RPD made credibility findings based on her testimony. Justice Locke noted at paras 32-33:

[32] The RPD's reasons for decision show that the key negative inferences drawn by it are based mainly on the inconsistency of the applicant's story, her dissociation from the events and her inability to explain the events in chronological order.

[33] While it is not for an expert to determine if the inconsistencies in a refugee protection claimant's testimony can be excused by post-traumatic stress syndrome (*Diaz Serrato v Canada (Citizenship and Immigration)*, 2009 FC176, at para 22), the fact remains that caution must be exercised where there is a connection between the inconsistencies or omissions identified by the RPD and the cognitive errors referred to in a medical or psychological report (*Garay Moscol v Canada (Citizenship and Immigration)*, 2008 FC 657, at para 10).

[Emphasis added]

[60] Justice Locke also noted that, in the case of a claimant suffering from PTSD, medical evidence is important to assess credibility as it helps explain the claimant's memory problems (at para 36).

[61] *Joseph* does not change the principles established in the jurisprudence. It applies those principles to the facts, which differ from the facts in the present case. In this case, no connection existed between the information in the medical report and the inconsistencies and implausibilities which led to negative credibility findings. The RPD did not find that the Applicant had any apparent difficulty giving his testimony. The credibility findings did not arise from memory problems or errors in dates or chronology of events.

[62] The Applicant appears to rely on the psychiatric report to bolster the credibility of his version of events on the basis that those events resulted in his PTSD or that PTSD is consistent with experiencing such events.

[63] The law is clear that events recounted to a psychiatrist or other health professional cannot corroborate the same events recounted to the RPD or another tribunal (see for example *Moya v Canada (Minister of Citizenship and Immigration)*, 2016 FC 315 at para 57, [2016] FCJ No 335 (QL); *Saha v Canada (Minister of Citizenship and Immigration)*, 2009 FC 304 at para 16, 176 ACWS (3d) 499)

[64] It is not the psychiatrist's role to assess the credibility of events that form the basis of a refugee claim. That is the role of the tribunal. The RPD clearly stated « le tribunal n'accordera pas d'importance à la conclusion du rapport présenté relativement à l'opinion du médecin pour ce qui a trait à la crédibilité du demandeur, mais a tenu compte de ce rapport en ce qui a trait à la capacité du demandeur à livrer son témoignage ». The RPD did not simply discount or ignore the psychiatrist's report. Rather, the RPD reasonably placed no significance on the psychiatrist's opinion that the Applicant's claims were credible.

VIII. Did the RPD err in not addressing the 2013 kidnapping?

[65] The Applicant argues that because the RPD failed to address his claim that he was kidnapped a second time in May 2013, this allegation must be taken as true. According to the Applicant, the second kidnapping was a significant event and precipitating factor in his decision to leave the DRC.

[66] The Respondent submits that the May 2013 kidnapping is one of a series of alleged events that were triggered by the Applicant's refusal to take the artistic commission in 2009.

Even if the RPD failed to refer to the 2013 kidnapping, the RPD is presumed to have considered all the evidence.

The RPD did not ignore the 2013 kidnapping

[67] I do not agree that the RPD erred by failing to specifically address the Applicant's allegation that he was kidnapped in May 2013. The RPD acknowledged all the Applicant's allegations, which included the May 2013 kidnapping. The RPD also probed the Applicant's testimony regarding the 2013 kidnapping at the hearing.

[68] The RPD made several reasonable credibility findings and concluded that the Applicant had not been sought by the ANR as a result of his imputed political opinion. Although the Applicant argues that the RPD's negative credibility findings were restricted to the 2012 kidnapping, in my view, the RPD's finding was broader. The RPD concluded that the Applicant was not wanted by the ANR at that time nor was he wanted at the present time. This conveys that the RPD did not accept that the Applicant was kidnapped in 2013 for the same reasons it rejected the allegation that he was kidnapped in 2012.

[69] In addition to finding that the Applicant was not kidnapped or sought by the ANR in 2012, the RPD also found that he did not fear persecution based on imputed political opinion after 2012. This was based on the inconsistency in the Applicant's conduct in working for a member of the Kabila government after his alleged kidnapping by the same government.

[70] Similarly, the RPD found that the Applicant's delay in fleeing his home, despite his alleged fear for his safety, undermined his credibility in general.

[71] On the basis of several adverse credibility findings, the RPD reasonably concluded that the Applicant did not have the political profile he alleged and that he was not being sought by the ANR at any time. In my view, this conclusion extends to the alleged 2013 kidnapping.

[72] In conclusion, the RPD's credibility findings fall within a range of reasonable outcomes which are justified by the facts and the law. The RPD provided clear reasons for its credibility findings which reasonably led the RPD to find that the Applicant had not established that he was a Convention refugee or person in need of protection. As a result, the application for judicial review is dismissed.

JUDGMENT

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

There is no question for certification.

"Catherine M. Kane"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-277-16

STYLE OF CAUSE: RHOLEX AWAP YONG N’KULY v THE MINISTER
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