Federal Court Cour fédérale

Date: 20210210

Docket: IMM-5426-19

Citation: 2021 FC 135

Ottawa, Ontario, February 10, 2021

PRESENT: Madam Justice Pallotta

BETWEEN:

ISMAHIL LARRAB

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of the decision of the Refugee Appeal Division (RAD) affirming the Refugee Protection Division's (RPD) determination that the applicant, Mr. Ismahil Larrab, is neither a Convention refugee nor a person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].

[2] Mr. Larrab is a citizen of Ghana who claimed refugee protection based on a fear of persecution due to his perceived sexual orientation. Although Mr. Larrab is heterosexual, he alleges that he is perceived to be homosexual because he intervened to protect others who were targeted for their sexual orientation. He alleges he was severely beaten on two occasions as a result of the interventions.

[3] The RAD dismissed Mr. Larrab's appeal and affirmed the RPD's determination, finding that Mr. Larrab did not establish he would be perceived as homosexual or that he would engender this perception by intervening on behalf of persons accused of homosexuality if he were to return to Ghana. Furthermore, the RAD found that Mr. Larrab would not face a serious threat of persecution in Kumasi and that he has a viable internal flight alternative (IFA) in that city. The RAD determined the RPD did not breach procedural fairness by refusing Mr. Larrab's application to change the date of his refugee hearing due to the non-availability of his counsel, or by the manner in which it conducted the hearing.

[4] On this application for judicial review, Mr. Larrab submits the RAD erred by finding that the RPD did not breach procedural fairness. Mr. Larrab further submits the RAD failed to apply the correct standard of review for an appeal of a decision of the RPD, and erred in its credibility findings and in its findings regarding an IFA in Kumasi.

[5] I find that the RAD did not commit a reviewable error on any of the issues raised by Mr. Larrab. Accordingly, this application for judicial review is dismissed.

II. **Issues and Standard of Review**

[6] The issues on this application for judicial review are:

A. Did the RAD err in finding that the RPD did not breach procedural fairness?

B. Did the RAD err by failing to apply the correct standard of review?

C. Did the RAD err in its credibility findings by failing to properly assess the evidence?

D. Did the RAD err in its IFA analysis?

[7] The applicable standard for reviewing the RAD's decision on the merits is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (CanLII) [*Vavilov*] (*Akinyemi-Oguntunde v Canada (Citizenship and Immigration)*, 2020 FC 666 at para 15; *Armando v Canada (Citizenship and Immigration)*, 2020 FC 94 at para 31; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 at para 17). This standard applies to issues B, C, and D (See *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93, [2016] 4 FCR 157 at paras 31 and 35).

[8] Mr. Larrab submits that issue A relates to procedural fairness, and should be reviewed according to the correctness standard: (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). However, the issue does not relate to a breach of procedural fairness by the RAD. Rather, Mr. Larrab's appeal to the RAD alleged that the RPD breached procedural fairness, and he asks this Court to review the RAD's decision on the issue. For reasons similar to those explained in *Ibrahim v Canada (Minister of Citizenship and Immigration)*, 2020 FC 1148

[*Ibrahim*] at paragraphs 11 to 18, I am of the view that issue A is reviewable on the reasonableness standard. However, as was the case in *Ibrahim*, I conclude that the RAD did not commit a reviewable error, regardless of whether the correctness standard or the reasonableness standard is applied. Therefore, in Mr. Larrab's case, my finding on this issue does not turn on the appropriate standard of review.

III. **Analysis**

A. *Did the RAD err in finding that the RPD did not breach procedural fairness?*

[9] Mr. Larrab submits that the RPD's denial of procedural fairness is the key issue on this application for judicial review.

[10] First, Mr. Larrab submits the RAD erred in finding that the RPD did not breach procedural fairness by denying his request to change his hearing date due to non-availability of counsel. Mr. Larrab was formerly represented by Winnipeg counsel. When he moved from Winnipeg and his file was transferred to Toronto, Mr. Larrab submits the RPD agreed to a hearing date with his former counsel in Winnipeg. Mr. Larrab's Toronto counsel had a conflict with the date since he was due to appear at another hearing before the RPD on the same day, and immediately requested an adjournment. The RPD denied the adjournment request.

[11] Mr. Larrab also submits he was not afforded a reasonable opportunity to find alternative counsel, because the RPD rejected the adjournment request less than two weeks before the hearing date (about a week before the hearing date if one considers that receipt of a document is deemed effective seven days after mailing).

[12] Mr. Larrab repeated his request for an adjournment at the start of his hearing. Mr. Larrab asserts that he was intimidated into proceeding without counsel at the risk of having his claim declared as abandoned.

[13] Mr. Larrab argues that although the right to counsel in a refugee hearing is not absolute, he was denied procedural fairness because an adjournment was justified in his case. He relies on *Siloch v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 10 (FCA) [*Siloch*] and *Ali v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 259 [*Ali*] at paragraph 33 for the proposition that the RAD and the RPD ought to have considered a series of relevant factors such as the length of adjournment sought and whether the adjournment would unreasonably impede the proceedings. Mr. Larrab had not previously requested an adjournment, the hearing date had not been set peremptorily, he had just moved to Toronto, and the hearing date had been fixed with former counsel in Winnipeg who was unwilling to attend the hearing in Toronto. Mr. Larrab submits that he should not be prejudiced by Winnipeg counsel's unwillingness to attend the hearing in Toronto and Toronto counsel's scheduling issues.

[14] Second, Mr. Larrab submits the RAD erred in finding that the RPD's conduct at the hearing did not breach procedural fairness. Mr. Larrab submits he was denied a fair hearing, as he was not afforded an opportunity to participate meaningfully. He cites *Austria v Canada (Minister of Citizenship and Immigration)*, 2006 FC 423 at paragraph 9 and *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1367 [*Ranganathan*] at paragraph 10 for the proposition that the RPD must take necessary precautions to ensure that the hearing proceeds fairly, and that a self-represented applicant is able to meaningfully participate. Mr.

Larrab argues that the RPD failed in this regard by: (a) failing to explain the meaning of a Convention refugee or a person in need of protection, and the concept of the burden of proof; (b) failing to state that credibility was an issue until the end his oral testimony; and (c) failing to explain the type of evidence that was required to establish his claim.

[15] With respect to the refusal to postpone the RPD hearing date, I am not persuaded the RAD made a reviewable error when it determined that the RPD did not breach procedural fairness. The RAD correctly noted, as Mr. Larrab concedes, that the right to counsel is not absolute. The RAD determined that although Mr. Larrab indicated a strong preference to proceed with counsel, he had not made provision for counsel to be present, and ultimately accepted to proceed as a self-represented litigant.

[16] In support of its determination, the RAD noted that Mr. Larrab had applied to change the location of the hearing from Winnipeg to Toronto on May 17, 2018 and his application was granted on June 7, 2018. The RPD issued a notice to appear on August 17, 2018, for a hearing date of September 12, 2018 that had been set with Mr. Larrab's former counsel in Winnipeg. The RAD noted the RPD received no indication that Mr. Larrab retained new counsel until August 22, 2018 when Toronto counsel submitted a request for a new hearing date. Importantly, the RAD held that the RPD acted in accordance with the *Refugee Protection Division Rules*, SOR/2012-256 [*RPD Rules*] and the *Chairperson's Guideline 6: Scheduling and Changing the Date or Time of the Proceeding* [*Guideline 6*] in denying the request. The RAD found that the scheduling difficulty could have been avoided if Mr. Larrab had followed the *RPD Rules*, and particularly Rules 4(4) and 16, by removing Winnipeg counsel as counsel of record and by

advising the RPD about Toronto counsel without delay. The RAD noted that *Guideline 6* requires counsel who is unable to appear to arrange for replacement counsel, and warns that applications to change the date of a proceeding are generally not allowed if a party chooses to retain counsel who is not available on a date that has already been fixed, even if the unavailability results from fulfilment of other professional duties, as in Mr. Larrab's case. I note that Mr. Larrab did not address the effect of the *RPD Rules* or *Guideline 6* in his request for an adjournment or explain why his circumstances warranted an adjournment. The adjournment was requested solely on the basis that counsel who had "just been retained" was not available to attend the hearing because of another hearing on the same day.

[17] Mr. Larrab submits that he retained counsel immediately after moving to Toronto; however, he provided no details or dates. Mr. Larrab's affidavit states that he hired his Toronto counsel in "August 2018". He had requested a change to the location of the RPD hearing in May 2018 and provided no information regarding any efforts to ensure Winnipeg counsel could represent him, or to secure other counsel in Toronto. Furthermore, Mr. Larrab did not specify the date in August when he retained Toronto counsel, or whether he retained counsel before or after he learned that a hearing date had been set. If he retained Toronto counsel after the RPD set the hearing date, which seems to be the case based on the language of the request for an adjournment, then according to *Guideline 6*, he should have ensured that his counsel was available on the date of the hearing. If Mr. Larrab retained Toronto counsel before the RPD set a hearing date, he has not explained why he failed to inform the RPD about the change in counsel.

[18] I am not persuaded that the timing of the RPD’s refusal resulted in a breach of procedural fairness. As noted above, Mr. Larrab provided no evidence of any efforts to secure alternative counsel. Furthermore, I am not satisfied that Mr. Larrab was justified in waiting for the RPD’s decision, as he could have taken steps to identify alternative counsel as soon as he discovered that his Toronto counsel was unavailable on the scheduled hearing date.

[19] At the hearing before this Court, Mr. Larrab argued that the RPD acted unfairly when it extended the courtesy of an adjournment to the respondent but did not extend the same courtesy to him. He states that his refugee hearing before the RPD had been originally scheduled for January 17, 2018 in Winnipeg, and it was adjourned because the respondent filed a last-minute notice to intervene in the refugee proceeding on the day of the hearing. Mr. Larrab did not raise this argument before the RPD, the RAD, or in his application record before this Court, and he did not give notice to the respondent before the hearing. In addition to the fact that the argument was not raised in a timely way, Mr. Larrab has not established a reviewable error by the RAD (or the RPD) due to a previous adjournment. Indeed, the information in the record appears to contradict the facts Mr. Larrab relies upon to suggest unequal treatment. While he asserts the respondent filed a notice to intervene on the day of the previously-scheduled hearing, the notice is dated a month earlier, December 17, 2017, it bears a stamp that appears to indicate it was received by the RAD on December 21, 2017, and it states that the respondent sent the notice to Mr. Larrab’s counsel “to be delivered by December 29 at the latest”. Additionally, Mr. Larrab did not point to any information in the record to establish that the January 2018 hearing was adjourned at the respondent’s request. The notice to intervene does not include an adjournment request, rather it states, “The Minister’s representative **WILL NOT BE PRESENT** at the

hearing" (emphasis in original), which suggests the respondent did not need to request an adjournment of the hearing.

[20] The *Ali* and *Siloch* decisions relied on by Mr. Larrab are distinguishable. The *Ali* decision is a 2002 decision of this Court that considered a refusal to adjourn a refugee hearing date under section 69(6) of the former *Immigration Act*, RSC 1985, c I-2, and Rule 13(4) of the former *Convention Refugee Determination Division Rules*, SOR/93-45. The current legislative and policy framework differs from the previous legislation, and as noted above, the RAD held that the RPD's refusal to postpone the hearing date was made in accordance with the *RPD Rules* and *Guideline 6* that were in effect at the time of Mr. Larrab's request. Mr. Larrab does not argue that the RPD's refusal to adjourn his refugee hearing was made contrary to the *RPD Rules* or *Guideline 6*. Additionally, *Ali* is distinguishable on the facts. Among other things, the Court found that the refusal to grant an adjournment request was unreasonable because it was based on findings—that the applicant was being untruthful and attempting to delay the proceedings—that were not grounded in the evidence. The *Siloch* decision relates to section 35 of the *Immigration Regulations*, 1978, SOR/78-172, which is no longer in force. Also, the respondent correctly points out that the facts of *Siloch* are distinguishable because in that case, counsel was expected to appear at the hearing and the applicant was prejudiced by the failure to appear. There were no such expectations in the present case, since Mr. Larrab knew his counsel was unavailable at least as early as the date of his first request for an adjournment.

[21] I am not persuaded that Mr. Larrab was prejudiced by what he described as a failure of his Winnipeg counsel to agree to attend his hearing in Toronto, and his Toronto counsel's

scheduling issues. I note that Mr. Larrab's evidence of the Winnipeg counsel's refusal to attend the hearing in Toronto conflicts with his evidence that the RPD fixed the hearing date with his Winnipeg counsel, but in any event, Mr. Larrab filed no evidence or correspondence from his counsel or former counsel to support his position.

[22] Finally, I disagree with Mr. Larrab's allegations that he was "browbeaten and intimidated by threat into participating against his wish to have counsel assist him in his hearing," and that he was "often cut off and was not allowed to express himself fully." These allegations relate to the Coordinating Member who heard Mr. Larrab's second request for an adjournment. They do not relate to the Presiding Member who heard Mr. Larrab's claim for refugee protection. I will address Mr. Larrab's allegations regarding a breach of procedural fairness by the Presiding Member below, when I turn to his allegation that the RAD erred in finding that the RPD's conduct at the hearing did not breach procedural fairness.

[23] Mr. Larrab raised the same allegations about the Coordinating Member's conduct on his appeal to the RAD. The RAD listened to the recording from the RPD hearing, and as noted above, found that the RPD acted in accordance with the *RPD Rules* and *Guideline 6*. The RAD disagreed that Mr. Larrab was unable to participate meaningfully in the hearing and found that, on appeal, Mr. Larrab was attempting to litigate the dismissal of his adjournment request for a third time. I see no error in these findings.

[24] I have also listened to the recording, and while the Coordinating Member's tone and language reflected impatience with Mr. Larrab, I am not satisfied that procedural fairness was

compromised as a result. The same Coordinating Member had considered Mr. Larrab's initial adjournment request, and rejected it with written reasons. It was to be expected that Mr. Larrab's second request, which relied on the same basis as the first request, was likely to be rejected for the same reasons. After refusing Mr. Larrab's second adjournment request, the Coordinating Member informed Mr. Larrab that he could proceed without counsel, or if he did not proceed, his refugee claim would be marked abandoned. This was a statement of the consequence of not proceeding with the hearing that day.

[25] Turning to whether Mr. Larrab was afforded the opportunity to participate meaningfully in the hearing of his refugee claim, I find the RAD made no reviewable error in determining that the RPD did not breach procedural fairness. The RAD determined that the RPD conducted a hearing where Mr. Larrab could meaningfully participate, pointing to several examples from the RPD record that demonstrated a fair hearing.

[26] The RAD noted that the RPD explained the manner of the proceeding in detail and explained each of the issues to be decided in the hearing. The RAD did not err in finding that the RPD ensured Mr. Larrab was fully aware of the case to be met. Among other things, the RAD noted that the RPD:

A. explained the manner of the proceeding, the list of documents in evidence, what to expect during questioning, and the role of the respondent;

B. explained the nature of an application for late submission of evidence, and accepted all the documents that Mr. Larrab tendered late, on the day of the hearing;

C. advised Mr. Larrab that issues in the hearing would be his identity, state protection, persecution grounds, IFA, and "whether [the RPD] believed what [Mr. Larrab said]";

D. explained the importance of proving identity as a threshold issue;

E. emphasized that Mr. Larrab was responsible for proving he was in need of protection, either as a Convention refugee or as a person in need of protection;

F. inquired whether Mr. Larrab obtained the documentation from his U.S. asylum claim (as had been requested) and explained that a negative inference could be drawn from the failure to produce these documents;

G. provided Mr. Larrab with an opportunity to add any information he felt was missing; and

H. gave a clear indication of the live issues in the claim, so Mr. Larrab could address them in his submissions.

[27] Contrary to Mr. Larrab's assertion that the RPD failed to state that credibility was an issue until the end his oral testimony, the RAD noted that the RPD explained credibility twice: at the outset, the member explained that "whether I believe what you have said and presented at this hearing" was an issue for decision, and toward the end of the hearing, the member repeated, "the other issue is what's called credibility and that's an issue in most refugee cases … whether I believe what you've said and presented at the hearing". The RAD noted that while the RPD did not specifically enumerate the Convention grounds of persecution, the RPD explained that "persecution grounds" referred to why Mr. Larrab feared harm, whom he feared, and what would happen if he returned to Ghana. Mr. Larrab was able to articulate his allegations based on imputed sexual orientation, and he was able to indicate why he feared harm, whom he feared, and what would happen if he were to return to his home country.

[28] The RAD provided ample support for its conclusion that the RPD did not breach procedural fairness. I find that the RPD took the necessary precautions to ensure that the hearing proceeded fairly, and that Mr. Larrab was able to meaningfully participate as a self-represented claimant. I am not satisfied there was prejudice to Mr. Larrab's right to fully present all of the

facts supporting his refugee claim to the RPD, or that the RPD was not "ready to hear all the evidence": *Ranganathan* at para 10.

[29] As further indication that the RAD did not err in finding the RPD hearing was procedurally fair, I note that Mr. Larrab did not seek to introduce new evidence on appeal to the RAD or request an oral hearing. Indeed, in the affidavit filed to support his appeal to the RAD, Mr. Larrab stated that the evidence he provided before the RPD was sufficient for the RAD to find that he is a Convention refugee or a person in need of protection, and that he did not believe returning the matter to a different member of the RPD would serve any useful purpose. I am not satisfied that any specific prejudice resulted from the manner in which the RPD conducted the hearing.

[30] In conclusion, the RAD did not err in finding that Mr. Larrab participated meaningfully at the hearing, and that the RPD did not breach procedural fairness.

B. *Did the RAD err by failing to apply the correct standard of review in its appeal?*

[31] Mr. Larrab submits the RAD failed to conduct an independent assessment of the evidence that was before the RPD before arriving at its own decision. He submits the RAD carried out a "judicial review function" when it should have undertaken its own review of the evidence. I disagree.

[32] Mr. Larrab has not pointed to specific passages in the RAD's reasons indicating that the RAD adopted the wrong approach to arrive at its decision. As the respondent correctly notes, the

RAD reviewed the entirety of Mr. Larrab's evidence and reached its own conclusions regarding credibility, the availability of an IFA, and the breach of procedural fairness. The RAD was aware of its role on appeal, indicating that it "conducted [an] independent analysis—including listening to the entire audio recording of the hearing". It is apparent from the decision that the RAD conducted an independent assessment of the evidence in the record, and did not merely rely on the RPD's reasoning. The RAD did not err by failing to apply the correct standard of review.

C. *Did the RAD err in its credibility findings by failing to properly assess the evidence?*

[33] Mr. Larrab submits the RAD (and the RPD) erred in making negative credibility findings due to his failure to provide documentary evidence, such as his U.S. asylum claim documents and letters from relatives. He submits the RAD overlooked the U.S. asylum documents that were in the record. Mr. Larrab argues the RAD failed to apply the presumption of truthfulness (*Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302 [*Maldonado*]). Also, Mr. Larrab argues that Rule 11 of the *RPD Rules* does not permit the RPD to make an adverse credibility finding based on a failure to provide documentary evidence, but only based on the lack of an explanation for such failure. Mr. Larrab argues it is an error to reject a claim solely due to a lack of corroborative evidence (*Attakora v Canada (Minister of Employment and Immigration)*, [1989] FCJ No. 444 (CA) (QL)) and he submits the RAD erred by drawing a negative inference from his inability to produce certain documentary evidence without asking why he was unable to do so (*Mohideen Osman v Canada (Citizenship and Immigration)*, 2008 FC 921 at para 37).

[34] The respondent submits that where there are concerns regarding the reliability of a witness' testimony, the requirement for corroboration is a matter of common sense and a rule of evidence: *Guzun v Canada (Citizenship and Immigration)*, 2011 FC 1324 at para 20. Mr. Larrab did not give reasons for his failure to provide the requested asylum documents and as a result, the RAD was entitled to find that the presumption of truthfulness was rebutted. The respondent argues it was reasonable for the RAD to require evidence to support Mr. Larrab's allegations of an attack on his family in 2015.

[35] In my view, the RAD did not err in its credibility findings. In early December 2017, the RPD asked Mr. Larrab's counsel to submit a complete copy of Mr. Larrab's U.S. asylum application, including supporting documents. The documents were required to corroborate the basis for claiming asylum in the U.S. These documents were not in the record before the RPD and the RAD noted that Mr. Larrab did not seek to adduce them on appeal. Based on the failure to comply with the request, the RAD reasonably drew a negative inference that Mr. Larrab's basis for claiming asylum in the U.S. differed from his claim in Canada. Furthermore, in December 2017, the respondent served a notice of intention to intervene, which included the results of an investigation into an attempt by Mr. Larrab to immigrate to the U.S. The respondent requested information about Mr. Larrab's 2008 U.S. immigration visa application, evidence to support his identity and travel route, and the reasons he was not allowed to stay in the U.S. These requests were made nine months prior to the date of the RPD hearing, and there is no evidence that Mr. Larrab made any effort to obtain the requested documents and information, or that he provided any explanation for failing to comply.

[36] It was also reasonable for the RAD (and the RPD) to question the lack of corroborating evidence regarding Mr. Larrab's account of a 2015 attack on his family in Ghana. The RAD reasonably found the presumption of truthfulness was rebutted due to Mr. Larrab's failure to provide the requested documents to demonstrate that the allegations in his U.S. and Canadian claims were consistent. As such, it was reasonable to require some documentary corroboration of the 2015 attack on his family. The RAD noted that a letter from Mr. Larrab's cousin dated December 2017 did not refer the alleged victims of attack who were forced to flee from Ghana, or to Mr. Larrab's sister who allegedly died as a result. Since Mr. Larrab was in the U.S. at the time, he did not have first-hand knowledge of the alleged attack, and he provided no evidence from a person with direct knowledge. Mr. Larrab stated that his mother and sisters who fled Ghana were unable to write support letters due to lack of schooling; however, the RAD reasonably found that the family members might have been called to testify by telephone during the hearing. Based on the record, I find that it was open to the RAD to conclude on a balance of probabilities that the 2015 attack did not occur.

D. *Did the RAD err in its IFA analysis?*

[37] Mr. Larrab submits the RAD erred in its IFA analysis because it is incongruent to find that an applicant is not credible and then reject the claim based on a viable IFA finding. Mr. Larrab submits that the IFA analysis was superfluous, and relies on *Giraldo Cortes v Canada (Citizenship and Immigration)*, 2011 FC 329 [*Giraldo*], where this Court was of the view that the decision at issue should be set aside on the basis of a fundamental error in a credibility finding even if the decision could be upheld on an alternative finding of a viable IFA. It is not necessary for me to decide whether that reasoning is consistent with *Vavilov*, because Mr. Larrab has not

established that the RAD erred in its credibility determinations, and the reasoning in *Giraldo* is not applicable to the facts of this case.

[38] In the alternative, Mr. Larrab submits the RAD's IFA findings were based on speculation and a misstatement of the evidence. He submits the RAD failed to consider the issues he experienced due to his perceived sexual orientation after he fled from Bimbilla to Accra, in order to escape the agents of persecution. He argues that Accra is a larger city than Kumasi (I note that the record indicates Kumasi has a larger population than Accra at 2.6 million as of 2015). Also, Mr. Larrab submits the RAD speculated that his friend Andrews, who was also targeted as a result of intervening to help homosexual men who had been attacked in Bimbilla, experienced no issues in the Central Region of Ghana. Furthermore, Mr. Larrab asserts that the RAD failed to consider whether working as a barber would expose him to danger in Kumasi.

[39] I find that the RAD did not commit a reviewable error in its IFA analysis. As the respondent correctly submits, the burden of establishing that Kumasi is not a viable IFA rests with Mr. Larrab: *Istenes v Canada (Citizenship and Immigration)*, 2014 FC 79 at para 12, citing *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589. Mr. Larrab was unable to explain why or how the agents of persecution from Bimbilla would track him down in Kumasi, where he has no ties. Mr. Larrab made unsupported assertions about his perceived sexual orientation in Kumasi, and the ability of the agents of persecution to locate him because "people recognize people." The RAD found, based on the evidence, that Mr. Larrab's friend did not experience issues in the Central Region. The friend's letter stated that he was "presently living quietly" in the Central Region after

leaving Bimbilla in 2012. Mr. Larrab testified that this undated letter was written after December 27, 2017. Thus, the RAD concluded there was evidence to indicate that at least until early 2018, the friend had been living quietly for over five years with no indication of being threatened with harm in his new location in the Central Region. The RAD's IFA findings were not based on speculation. Mr. Larrab failed to meet his burden with concrete evidence of adverse conditions that would jeopardize his life and safety in Kumasi: *Chowdhury v Canada (Citizenship and Immigration)*, 2014 FC 1210 at para 24, citing *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 at para 15.

IV. **Conclusion**

[40] For the reasons above, in my view, the RAD's decision is reasonable. Moreover, the RAD did not err in applying an incorrect standard of review or by finding that the RPD did not breach procedural fairness. Accordingly, this application for judicial review is dismissed.

[41] Neither party proposed a question for certification and there is no question to certify.

JUDGMENT in IMM-5426-19

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question for certification.

"Christine M. Pallotta"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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