

Federal Court



Cour fédérale

**Date: 20210517**

**Docket: IMM-4379-20**

**Citation: 2021 FC 454**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, May 17, 2021**

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

**BETWEEN:**

**JEAN KENDY BELFORT**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**Hearing held by videoconference managed by the Registry at Ottawa, Ontario.  
Reasons delivered from the Bench at Fredericton, New Brunswick, on May 5, 2021.  
(Edited for syntax and grammar with added references to the relevant case law.)**

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [IRPA] of the August 31, 2020, decision of the

Refugee Appeal Division (RAD). The RAD confirmed the decision of the Refugee Protection Division (RPD) and rejected the claim for refugee protection of Jean Kendy Belfort, (“the Applicant”), pursuant to sections 96 and 97 of the *IRPA*. The RAD found that the applicant’s allegations were not credible and that he had failed to demonstrate that he would face a serious possibility of persecution in the event he were to return to his country of origin, Haiti.

[2] I do not intend to dwell on the facts or the standard of review but will proceed directly to the relevant passages from the RAD decision.

[3] Paragraph 15 of the RAD decision states, and I quote:

[TRANSLATION]

The appellant’s description in his [Basis of Claim Form (BOC Form)] is very specific; he wrote: “Jean Charles Moise’s supporters are often on the radio denouncing the government’s policies and demanding that it cede power. Thus, on July 5, 2018, I joined some leaders of the Pitit Dessalines party on the radio to criticize the government. In my opinion, everything indicates that Junior was listening to us since during the event of July 7, 2018, he met me in the street, the day the Prime Minister increased the price of gasoline. On that day, there was looting, protests. He saw me at the protest. He beat me up; he hit me several times. He also hit other supporters of Jean Charles Moise. Junior told me that he had heard me on the radio urging the people to rise up against their president. He accused me of being an accomplice in the uprising of the people against the president.

[Emphasis added.]

[4] The RAD continues, at paragraph 16 of its decision:

[TRANSLATION]

The appellant’s testimony, however, was far more vague. The appellant initially testified that he “was always there when it came

to going on the radio” but later clarified that he had appeared on the radio only once, on July 5, 2018. And when the RPD asked him why party “officials” asked him to join them on the radio, the appellant said that he was not the only one who had joined them, but that a number of people had also come along. Thus, the appellant avoided answering the question directly, but gave the impression that the party spokespersons had not asked him to attend that day and that he had gone along with a number of other people who had not been specifically invited. Then, when the RPD asked if he had spoken on the air, the appellant testified that he had been among the supporters and that “the supporters spoke . . . out loud”. Again, this was not a clear answer; the appellant’s response gives the impression that someone listening to the program on the radio could have heard his voice, but it also implies that his voice may not have been picked up by the microphones. Certainly, the appellant does not appear to have been introduced to listeners as a member or spokesperson for the party. Thus, his testimony that, on July 7, 2018, during the demonstration, Junior Pierre had heard him on the radio seems highly implausible”.

[Emphasis added.]

[5] The RAD continues, at paragraph 17 of its decision, referring to the kidnapping or disappearance of the applicant’s friend Vince Innocent:

[TRANSLATION]

Moreover, the RPD was correct in finding that it would appear that the appellant embellished his testimony spontaneously during the hearing when he spoke of the disappearance of his friend Vince Innocent during the July 7, 2018, protest, an allegation that did not appear in his BOC Form.

[6] The RAD continues at paragraphs 18 and 19, and I quote:

[TRANSLATION]

His testimony in this regard was evolving. The RPD asked the appellant if he was still in contact with members of the Pitit Dessalines party in Haiti. The appellant responded that he was on the telephone with them all the time and that they were still being persecuted. The RPD asked him to explain what kind of

persecution they were experiencing. The appellant replied that they were forbidden to speak. The RPD asked him how they were forbidden to speak. The appellant did not answer the question but instead explained that the PHTK was afraid that, if they spoke out, they would weaken its power. The RPD repeated its question, asking the appellant to elaborate on what kind persecution he had just referred to. The appellant replied that, when members spoke out against the government, they were threatened by the PHTK. The RPD asked the appellant to describe what he knew about the kinds of threats party members had received. The appellant responded that supporters had protested in September 2018, October 2018, and February 2019, and that some members had gone missing. Thus, the appellant did not answer the question about the threats but jumped to the missing members. The RPD then asked who had been reported as missing. The appellant responded that his friend Vince Innocent had gone missing at the July 7, 2018, protest—the same protest that the appellant had attended, where he had been attacked by Junior Pierre. However, the appellant omitted this allegation from his BOC Form, and he also omitted it from the account he gave to the police on July 7, 2018. The complaint to the police only mentions that “also, other supporters of the same group were beaten up on the day of the protest”.

[Emphasis added.]

Furthermore, when the RPD asked him why he thought his friend Vince Innocent had been kidnapped by PHTK supporters, the appellant replied, “After that, we didn’t see him anymore,” and since he did not know his friend’s family, he was unable to them contact them in order to get information. The RPD then asked the appellant how he knew that his friend had not simply gone somewhere else in the country to visit someone after the protest. At that point, the appellant responded that, during the protest, he witnessed his friend being taken and “being forced into a vehicle” with “several others”. It should be noted that the appellant added these details only after five minutes of questioning by the RPD, and that these details are inconsistent with his initial testimony that he did not see his friend after the demonstration and that that was why he thought his friend had gone missing.

[Emphasis added.]

[7] The RAD further states, at paragraphs 20 and 21:

[TRANSLATION]

As for the police report, the appellant also disputed the RPD's finding that the altercation with Junior Pierre might have occurred, but this fact does not corroborate the appellant's allegations as a whole. In his memorandum, he writes: "In the abstract, if the panel accepts that the appellant's altercation with Junior Pierre took place, does it have any idea of the motive for it? Nowhere in its decision does it give an answer." I do not agree with the appellant. It is not the RPD's role to fill in the gaps in a claimant's story. The RPD properly made findings of fact, determined on a balance of probabilities and based on the evidence in the record.

. . . In any event, I give little weight to the police report, since it makes no mention of the allegation that the appellant witnessed the kidnapping of his friend Vince Innocent and is therefore inconsistent with his testimony, as noted earlier in this decision.

[Emphasis added.]

[8] These are the facts found by the RAD. Despite his weaknesses on matters of credibility, Mr. Belfort is asking this Court to consider his political profile and allow his application for judicial review. He argues that the RAD, as well as the RPD, failed to adequately address his political profile. I understand this argument; however, I am of the view that the Applicant's limited political profile was not the basis for the RAD's finding. Rather, it was concerned with the credibility (or lack thereof) of the applicant's testimony about his participation in the radio show, the omission of his friend Vince Innocent's disappearance from his BOC Form and from the police report, in addition to his testimony about his spouse's address.

[9] I will not consider the issue of his spouse's address.

[10] As for the radio show, the RAD indicated that the applicant's testimony was vague. Specifically, the applicant initially testified that he [TRANSLATION] "was always there when it

came to going on the radio” but later clarified that he had appeared on the radio only once. Moreover, the RAD indicated that the applicant’s testimony was unclear as to his participation in the radio show, including whether he would have been heard on air by his assailant. Thus, I find that it was reasonable for the RAD to find that it was highly unlikely that his assailant, Junior Pierre, told him that he had heard him on the radio during the July 7, 2018, protest. I note this in particular because the Applicant appears to be implying that he was not speaking into the microphone when other members of the Pitit Dessalines party were speaking during the radio broadcast.

[11] The RAD found that the omission of the disappearance of his friend Vince Innocent from the Basis of Claim Form was not a minor omission and that it would appear that the applicant embellished his testimony spontaneously during the hearing. I agree entirely. The applicant had originally testified that Vince Innocent disappeared during the July 7, 2018, protests. He had testified that after the protest he [TRANSLATION] “didn’t see him anymore.” Moreover, when asked by the RAD how he knew that his friend had simply not gone somewhere else in the country, the applicant testified that he had witnessed Vince Innocent’s kidnapping, as he saw him get forced into a vehicle. I am of the opinion that it was reasonable for the RAD to find that the applicant testified spontaneously in order to embellish his testimony. I find that it strains credulity that someone would file a report with the police without mentioning their friend’s kidnapping.

[12] As for the explanation regarding his wife’s address and the role she would have played in the analysis, it is not necessary to consider these facts. The contradictions regarding the radio

program and the fact that he failed to mention his friend's kidnapping to the police are sufficient to conclude that the Applicant completely lacked credibility in these circumstances.

[13] I asked counsel if they would be proposing a question for certification and they replied no. I share their view. To be certified, a question must be dispositive of the appeal and transcend the interests of the immediate parties to the litigation, as well as contemplate issues of broad significance or general importance (*Zhang v Canada (Citizenship and Immigration)*, 2013 FCA 168 at para 9). There is no general question of law that would have an impact on the outcome.

**JUDGMENT in IMM-4379-20**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed, without costs. There is no question to be certified for consideration by the Federal Court of Appeal.

“B. Richard Bell”

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Judge



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

**DOCKET:** IMM-4379-20

**STYLE OF CAUSE:** JEAN KENDY BELFORT v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** MAY 5, 2021

**JUDGMENT AND REASONS:** BELL J.

**DATED:** MAY 17, 2021

**APPEARANCES:**

Pacifique Siryuyumusi FOR THE APPLICANT

Amani Delbani FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Pacifique Siryuyumusi FOR THE APPLICANT  
Ottawa, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Ottawa, Ontario