Federal Court  Cour fédérale

Date: 20221007

Docket: IMM-6759-21

Citation: 2022 FC 1384

Ottawa, Ontario, October 7, 2022

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

YUNFANG WANG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision by the Refugee Appeal Division [RAD], dated September 17, 2021 [Decision], dismissing the Applicant's appeal of the Refugee Protection Division [RPD] decision. The RPD decision, dated March 26, 2021, rejected the Applicant's claim for refugee protection on the basis she is at risk of harm from her husband and she practises Falun Gong. The RPD rejected the Applicant's refugee claim due to credibility

concerns. The RAD found the RPD had erred in some conclusions, but that overall the RPD correctly held the Applicant was not credible in any of her allegations.

II. Facts

[2] The following is the Applicant's narrative.

[3] The Applicant is a 51-year-old citizen of China. Around 2014, her husband developed a gambling problem that led to physical, psychological, and economic abuse. The Applicant's husband lost all their money gambling and the Applicant borrowed money from friends and family. The Applicant became depressed and took sleeping pills to cope.

[4] In 2017, the Applicant took a short trip to Handan City, in an attempt to leave her husband. The husband allegedly found her within about three days' time. This trip was not included in the Applicant's Basis of Claim [BOC].

[5] The Applicant also took a trip to Europe in March 2018, for ten days. She did not seek asylum while on this trip before she returned to China.

[6] The Applicant left China and travelled to Canada in December 2018. She filed for refugee status in January 2019. While in Canada, the Applicant began practising Falun Gong.

[7] The RPD rejected both grounds for the Applicant's refugee claim, the domestic violence and the *sur place* claim. The determinative issue for the RPD was credibility. The RPD found the

Applicant “failed to establish her allegations with sufficiently credible and trustworthy evidence”. The Applicant appealed to the RAD.

III. RAD Decision under review

[8] In dismissing the appeal, the RAD found “although the RPD erred in some of its conclusions, it correctly held that overall, the Appellant was not credible in any of her allegations”. The RAD found the RPD correctly concluded the sole determinative issue was credibility, for both aspects of the claim.

[9] The RAD found the RPD had correctly drawn a negative inference from the omission in the Applicant’s BOC. The RAD found the RPD correctly concluded the omission of the alleged trip to Handan City “was a significant omission as the Appellant’s efforts to seek protection or a safe place to live in China go to the core of her claim”. The RAD further found the Applicant had not reasonably explained the omission and drew a negative credibility inference. The RAD also found, on the balance of probabilities, the Applicant did not try to relocate.

[10] The RAD found the RPD had “correctly concluded that expected medical documentation was missing”. The RAD found the RPD had incorrectly drawn a negative credibility inference from the Applicant’s failure to provide a medical booklet detailing her injuries. The RAD accepted the Applicant’s submission on appeal that patients in China manage personal paper-based outpatient records. The RAD found “it would be reasonable to expect that after five years of receiving sleeping pills and attending the village clinic for her injuries that the Appellant would have some corroborative documentation”. The RAD determined no reasonable

explanation for the lack of any treatment records had been provided. The RAD held the RPD correctly drew an adverse inference from the lack of documentation, which further impugned the Applicant's credibility.

[11] The RAD held the RPD correctly found the Applicant's explanation for failing to claim refugee status in Europe further impugned her credibility. The RAD noted a number of discrepancies, which were put to the Applicant at the RPD hearing, relating to the financing of the Europe trip and her exit from China. The RAD found the Applicant's testimony "surrounding her relationship with her friends and their financial support, the financing of her trip, and failure to claim refugee status in Europe is inconsistent, contradicts her BOC narrative in parts, and was not reasonably explained, all of which impugns her credibility."

[12] The RAD held the RPD correctly found the lack of corroborating evidence, from family, friends, or medical professionals was not reasonably explained. The BOC stated the Applicant's family and friends knew of the abuse and gave her money, but there were no corroborative documents submitted, either before the RPD or in perfecting the appeal to the RAD. The lack of corroborating documents undermined the credibility of the Applicant's allegations.

[13] The RAD concluded the Applicant had "not provided any credible evidence to establish her allegation that she is a victim of domestic violence."

[14] The RAD also concluded the RPD had correctly assessed the *sur place* claim, upholding the RPD's findings the Applicant was not a Falun Gong adherent and did not face serious risk of

persecution if she was returned to China. The RAD found the *sur place* claim was related to the central aspect of the Applicant's claim, her mental health, and imported the negative credibility findings into the *sur place* claim assessment.

[15] The RAD found the evidence submitted for the *sur place* claim did not overcome the credibility concerns. The RAD assessed the supporting *sur place* documentation and found the photographs and a letter from a co-practitioner of little weight. Three of the four photographs depicted the Applicant engaging in Falun Gong activities in the winter, so did not indicate how long the Applicant was a practitioner. The letter from a co-practitioner listed activities without details and therefore lacked probative value regarding the sincerity of the Applicant's beliefs. The RAD found the Applicant had not proven she is a genuine Falun Gong practitioner.

[16] The RAD also assessed the risk the Applicant might face as a Falun Gong practitioner if she were returned to China. Although the Applicant testified to speaking about the Chinese government's persecution of Falun Gong at a mall, she had not provided any evidence or argument that she would come to the attention of Chinese authorities based on her Falun Gong activities if she were returned to China. The RAD found the Applicant had "no serious possibility of persecution should she return to China because of her Falun Gong activities and was not credible in the allegations in her *sur place* claim."

IV. Issues

[17] The only issue is whether the Decision is reasonable in terms of credibility findings.

V. Standard of Review

[18] As noted, the issue in this case is reasonableness. With regard to reasonableness, in *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, issued at the same time as the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the majority per Justice Rowe explains what is required for a reasonable decision, and what is required of a court reviewing on the reasonableness standard:

> [31] A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov*, at para 85). Accordingly, when conducting reasonableness review "[a] reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at [the] conclusion" (*Vavilov*, at para. 84, quoting *Dunsmuir*, at para. 48). The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at para 97, citing *Newfoundland Nurses*).
>
> [32] A reviewing court should consider whether the decision as a whole is reasonable: "what is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review" (*Vavilov*, at para 90). The reviewing court must ask "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility—and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov*, at para. 99, citing *Dunsmuir*, at paras. 47 and 74, and *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2, [2012] 1 SCR 5, at para 13).
>
> [33] Under reasonableness review, "[t]he burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov*, at para 100). The challenging party must satisfy the court "that any shortcomings or flaws relied on … are sufficiently central or significant to render the decision unreasonable" (*Vavilov*, at para 100).
>
> [Emphasis added]

[19] Furthermore, *Vavilov* makes it abundantly clear the role of this Court is not to reweigh and reassess the evidence unless there are "exceptional circumstances". The Supreme Court of Canada instructs:

> [125] It is trite law that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *CHRC*, at para. 55; see also *Khosa*, at para. 64; *Dr. Q*, at paras. 41–42. Indeed, many of the same reasons that support an appellate court's deferring to a lower court's factual findings, including the need for judicial efficiency, the importance of preserving certainty and public confidence, and the relatively advantageous position of the first instance decision maker, apply equally in the context of judicial review: see *Housen*, at paras. 15–18; *Dr. Q*, at para. 38; *Dunsmuir*, at para. 53.
>
> [Emphasis added]

[20] The Federal Court of Appeal recently held in *Doyle v Canada (Attorney General),* 2021 FCA 237 [*Doyle*] that the role of this Court is not to reweigh and reassess the evidence:

> [3] In doing that, the Federal Court was quite right. Under this legislative scheme, the administrative decision maker, here the Director, alone considers the evidence, decides on issues of admissibility and weight, assesses whether inferences should be drawn, and makes a decision. In conducting reasonableness review of the Director's decision, the reviewing court, here the Federal Court, can interfere only where the Director has committed fundamental errors in fact-finding that undermine the acceptability of the decision. Reweighing and second-guessing the evidence is no part of its role. Sticking to its role, the Federal Court did not find any fundamental errors.
>
> [4] On appeal, in essence, the appellant invites us in his written and oral submissions to reweigh and second-guess the evidence. We decline the invitation.

[21] Furthermore, in this Court's decision of *Martinez Giron v Canada (Citizenship and Immigration)*, 2013 FC 7, Justice Kane enunciated the deference owed to tribunal decision makers:

> [14] With respect to the Board's analysis of credibility and plausibility, given its role as trier of fact, the Board's findings warrant significant deference: *Lin v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1052, [2008] FCJ No 1329 at para 13; *Fatih v Canada (Minister of Citizenship and Immigration)*, 2012 FC 857, [2012] FCJ No 924 at para 65.
>
> [15] This does not mean, however, that the Board's decisions are immune from review where intervention is warranted. In *Njeri v Canada (Minister of Citizenship and Immigration)*, 2009 FC 291, [2009] FCJ No 350 Justice Phelan stated:
>
> > [11] On credibility findings, I have noted the reluctance that this Court has, and should have, to overturn such findings except in the clearest case of error (*Revolorio v. Canada (Minister of Citizenship and Immigration*), 2008 FC 1404). The deference owed acknowledges both the contextual circumstances and legislative intent, as well as the unique position that a trier of fact has to assess testimonial evidence. That deference is influenced by the basis upon which credibility is found. The standard is reasonableness subject to a significant measure of deference to the Immigration and Refugee Board.
> >
> > [12] However, deference is not a blank cheque. There must be reasoned reasons leading to a justifiable finding. With considerable reluctance, I have concluded that this decision does not meet this standard of review.

[22] Because credibility is the central issue in both the decisions of the RPD and the RAD, I will follow constraining law in this regard as summarized in *Khakimov v Canada*, 2017 FC 18 at para 23:

…To begin with, the RPD has broad discretion to prefer certain evidence over other evidence and to determine the weight to be assigned to the evidence it accepts: *Medarovik v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 61 at para 16; *Pushpanathan v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 867 at para 68. The Federal Court of Appeal has stated that findings of fact and determinations of credibility fall within the heartland of the expertise of the RPD: *Giron v Canada (Minister of Employment and Immigration)* (1992), 143 NR 238 (FCA) [*Giron*]. The RPD is recognized to have expertise in assessing refugee claims and is authorized by statute to apply its specialized knowledge: *Chen v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 805 at para 10. And see *Siad v Canada (Secretary of State)*, [1997] 1 FC 608 at para 24 (FCA), where the Federal Court of Appeal said that the RPD:

> … is uniquely situated to assess the credibility of a refugee claimant; credibility determinations, which lie within "the heartland of the discretion of triers of fact", are entitled to considerable deference upon judicial review and cannot be overturned unless they are perverse, capricious or made without regard to the evidence.

[24] The RPD may make credibility findings based on implausibility, common sense and rationality, although adverse credibility findings "should not be based on a microscopic evaluation of issues peripheral or irrelevant to the case": *Haramichael v Canada (Minister of Citizenship and Immigration)*, 2016 FC 1197 at para 15, citing *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 at paras 10-11 [*Lubana*]; *Attakora v Canada (Minister of Employment and Immigration)*, [1989] FCJ No 444. The RPD may reject uncontradicted evidence if it "is not consistent with the probabilities affecting the case as a whole, or where inconsistencies are found in the evidence": *Lubana*, above at para 10. The RPD is also entitled to conclude that an applicant is not credible "because of implausibilities in his or her evidence as long as its inferences are not unreasonable and its reasons are set out in 'clear and unmistakable terms'": *Lubana*, above at para 9.

VI. Analysis

A. *Domestic violence claim*

[23] The Applicant alleges the RAD erred in finding the Applicant had not provided credible evidence to establish her allegation she is a victim of domestic violence. Several aspects are in issue in this contention.

(1) Omission in the BOC

[24] The Applicant argues the RAD erred by basing the Decision on an "impermissibly microscopic assessment of the evidence" in relation to a trip the Applicant took to Handan City in 2017. The Applicant allegedly took a three-day trip to Handan City to "get away from her husband, but […] he found her there". The Applicant argues the RAD took a microscopic approach in finding she was not credible about her experiences of domestic abuse due to the omission of this trip from her BOC. The Applicant relies on *Feradov v Canada (Citizenship and Immigration)*, 2007 FC 101 [*Feradov*] per Barnes J at para 19 for the proposition that a BOC narrative is "not intended to be an encyclopaedic recitation of the evidence."

[25] However, *Feradov* also holds, at para 18 that "[w]hile the failure to mention material or key allegations of persecution in one's PIF is a reasonable basis for concern, the omission of peripheral detail is not" [emphasis added]. In my view, the Applicant disagrees with the RAD's finding the omitted allegation is material. The RAD found, "the RPD correctly concluded that this was a significant omission as the Appellant's efforts to seek protection or a safe place to live

in China go to the core of her claim". Even if the omission of the trip was not significant, it is certainly material. Further, the RAD found the Applicant had "not reasonably explained why she did not include this relocation attempt in her BOC and [drew] a negative credibility inference". The omission itself was not the determinative factor. In my view the RAD was reasonably justified in drawing a negative credibility finding from this omission in the BOC.

(2) Lack of medical documentation

[26] The Applicant alleges the RAD erred by finding the Applicant was not credible due to the lack of medical documents to corroborate her injuries or that she took medication to cope. The Applicant argues the finding she would have received a 'record of treatment' was not based on any evidentiary source. The Applicant submits the RAD unreasonably speculated as to the kind of documents the Applicant should have received from the local village clinic when the Response to Information Request the RAD relied on is silent on whether village clinics issue any documentation. The Applicant relies on *Yu v Canada (Citizenship and Immigration)*, 2015 FC 167 per Phelan J at para 12 for the proposition that "[a] conclusion that a matter is implausible without articulation of the basis in the record (rather than just some personal opinion) is arbitrary and unreasonable."

[27] The Respondent submits the RAD relied on the Applicant's own submission before the RAD that "paper-based out patient medical records are given to and managed by the patients", which can be found at Note 1 in the cited Responses to Information Request. The RAD accepted and agreed with the Applicant's submission. The RAD further stated the Applicant had not

provided a reasonable explanation as to why no record of treatment had been provided for any of the five years the Applicant claimed to have received medical treatment.

[28] With respect, the Applicant drew the RAD's attention to the Responses to Information Request, and the exact passage the RAD relied on in the Decision, in her appeal submissions. There is an evidentiary basis for this finding and the Applicant provided it to the RAD. Further, the RAD did not make a finding on the specific type of documentation required to corroborate the Applicant's injuries, unlike the RPD. The RAD found "it would be reasonable to expect that after five years of receiving sleeping pills and attending the village clinic for her injuries that the Appellant would have some corroborative documentation" [emphasis added]. The RAD then held it was reasonable to draw an adverse inference from the lack of any supporting medical documentation. The Applicant cannot raise a ground of appeal before the RAD, succeed on that ground, and then allege the RAD's decision based on their evidence was unreasonable.

[29] Further, the Applicant focused her submissions on the RAD's use of the term 'record of treatment', arguing this indicates the RAD expected a specific type of document. Respectfully, this is a microscopic reading of the reasons by the Applicant, as it is clear from reading the reasons as a whole that the RAD did not expect specific documents, but rather any kind of corroborative medical document. None were provided.

[30] The Applicant further submits it was unreasonable for the RAD to impugn the Applicant's credibility based on a lack of corroborative documents. The Applicant relies on *Ahortor v Canada (Minister of Employment and Immigration),* [1993] FCJ No 705 (FCTD) per

Teitelbaum J at para 45 for the proposition that the failure to offer corroborative evidence cannot be related to a claimant's credibility in the absence of evidence to contradict their allegations.

[31] With respect, the RAD is entitled to draw adverse inferences from a lack of corroborating evidence where there are reasons to doubt the truthfulness of an applicant's story. This is clear from *Clervoix v Canada (Citizenship and Immigration),* 2020 FC 1152 per Gleeson J at para 33 who finds that where "there is already reason to doubt a claimant's credibility, a lack of corroborating evidence may further undermine the claimant's credibility."

[32] The RAD found the lack of supporting medical documentation "further impugn[ed] the credibility of the Appellant's allegations". The RAD already had credibility concerns based on the omissions in the BOC and the lack of supporting documentation further impugned the Applicant's credibility, but was not the sole basis for the finding of a lack of credibility. This finding is reasonable.

(3) Failure to claim refugee protection in Europe

[33] The Applicant argues the RAD's findings on the Applicant's failure to claim refugee status while on a trip to Europe were flawed. The Applicant also contends the RAD went on to make speculative findings on matters not raised before the RPD. The purported findings are inconsistencies in the Applicant's testimony regarding her friends and family providing money to leave China, that the Applicant did not seek protection in Europe despite her husband spending all their money, and that the Applicant's parents paid for the trip to Europe.

[34] The Respondent relies on *Ghotra v Canada (Immigration, Refugees and Citizenship)*, 2016 FC 1161 at para 18, per Bell J, for the proposition that failure to claim refugee protection at the earliest opportunity can be used to draw a negative inference in respect of a subjective fear of persecution. I agree this accurately reflects the jurisprudence.

[35] I note the Applicant did not raise the failure to claim refugee status in Europe in her appeal to the RAD. That said the inconsistencies identified by the RAD were put to her by the RPD. The Applicant was questioned about how the trip to Europe was financed, why the Applicant did not make a refugee claim in Europe, and how the Applicant was able to get to Canada.

[36] A claimant is obliged to respond to questions asked by the RPD, which is responsible to determine the facts of the case and the credibility of witnesses including claimants. The RAD found the Applicant had "not reasonably explained why her parents would finance a vacation instead of paying her debts, why her friends would finance her exit trip for one more time, after she was able to vacation in Europe and did not take the opportunity to claim refugee status." The RAD further found "the Appellant's testimony surrounding her relationship with her friends and their financial support, the financing of her trip, and failure to claim refugee status in Europe is inconsistent, contradicts her BOC narrative in parts, and was not reasonably explained, all of which impugns her credibility."

[37] The fact the RAD reviewed the issue of failure to claim refugee status in Europe also demonstrates the RAD undertook an independent assessment of the entire record. Further, the RAD clearly considered the evidence before it and made findings independent of the RPD.

[38] I am not persuaded these findings are unreasonable.

B. *Sur place claim*

[39] The Applicant also alleges the RAD erred in finding the Applicant was not a genuine practitioner of Falun Gong in Canada and would not face persecution in China based on her *sur place* activities.

(1) Tainted by previous errors

[40] The Applicant argues the RAD erred in how it approached the evidence of the Applicant's practice of Falun Gong. In particular, the Applicant alleges "[i]t is clear from the RAD's decision that, by the time it evaluated the *sur place* aspect of the Applicant's claim, it had already determined that she was not credible and that none of her allegations were true."

[41] However, this is a mischaracterization of the RAD's finding: the RAD concluded the evidence for the *sur place* claim "[did] not overcome the credibility concerns." As the Applicant presents this statement, it gives the appearance the RAD implied *sur place* evidence could never overcome credibility issues, as opposed to a finding that in this circumstance, the evidence presented did not overcome the credibility issues.

[42] The RPD found “in consideration of the fact that the Appellant had been in Canada for two years and Falun Gong information is widely available, the totality of the evidence did not prove the sincerity of the Appellant’s Falun Gong practice in light of the credibility concerns.” The RAD made no finding related to the availability of Falun Gong materials in its assessment of the *sur place* claim.

[43] In my respectful view, the Applicant is asking the Court to reweigh the evidence of her Falun Gong practice. The RAD considered the *sur place* claim, assessed the documentary evidence provided and explained why it was given little weight. After considering all the *sur place* evidence, the RAD concluded the evidence provided was not enough to overcome the previous credibility issues. Reweighing and reassessing this evidence is a function withheld from me by *Vavilov* and *Doyle*, cited above.

(2) Assessment of corroborative evidence

[44] The Applicant also submits the RAD lacked reasonable grounds for placing little weight on the letter from the Applicant’s co-practitioner. However, in my view the RAD gave several reasons why the letter lacked probative value. First, while it lists activities it does so without details. The letter is approximately 2/3 of a page, in the typed translation, and does not provide any details about the listed activities, such as dates, locations, the size or scope of the event, or other attendees who were present. It was therefore open to the RAD to find it did not substantiate central elements of the Applicant’s *sur place* claim. I find the RAD’s assessment of it was reasonable.

[45] The Applicant alleges the RAD erred in giving the letter little weight because the author did not appear as a witness to be cross-examined at the RPD hearing. The Respondent submits, and I agree, that while the lack of cross-examination was a factor in the RAD's analysis, it was not determinative or the sole basis for that assessment. It is clear from the Decision the lack of detail, and therefore probative value, was the main factor in assigning little weight to the letter.

[46] The Applicant also alleges the RAD erred in finding the letter was of little weight because no evidence was submitted from the person who introduced her to Faun Gong.

[47] Respectfully, the RAD did not make that finding. The Decision states "[t]he letter writer was also not mentioned in the amended BOC narrative, and the person who was mentioned, M., did not provide any corroborative evidence." In my view, the RAD is reasonably highlighting a concern the letter's author was not mentioned in the BOC, as opposed to drawing some adverse finding of weight based on the lack of evidence from M.

(3) Forward looking risk assessment

[48] Finally, the Applicant submits the RAD erred in finding her Falun Gong practice in Canada would not give rise to a serious risk of persecution in China. The Applicant says the RAD did not consider the portion of the co-practitioner's letter which states the Applicant took part in a Falun Gong parade and assembly. The Applicant further submits that country documents indicate the Chinese government aggressively monitors Falun Gong activities in Canada and sends 'spies' to Falun Gong events to create a 'blacklist' of Falun Gong practitioners.

[49] Again and with respect, I am asked to reweigh and reassess the evidence in this case. That is not the role of this Court on judicial review: *Vavilov* and *Doyle*.

[50] In my view, the RAD engaged with the issue of whether the Applicant would be perceived as a Falun Gong practitioner in China. It noted the evidence but found it wanting. That is well within the RAD's mandate.

VII. Conclusion

[51] I find the Decision is justified, transparent and intelligible, and therefore is reasonable, for the reasons above. Therefore, this application will be dismissed.

VIII. Certified Question

[52] Neither party proposed a question of general importance, and none arises.

JUDGMENT in IMM-6759-21

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed, no question of general importance is certified and there is no Order as to costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6759-21
STYLE OF CAUSE:	YUNFANG WANG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
DATE OF HEARING:	SEPTEMBER 27, 2022
JUDGMENT AND REASONS:	BROWN J.
DATED:	OCTOBER 7, 2022

APPEARANCES:

Elnaz Dast Parvardeh	FOR THE APPLICANT
Leila Jawando	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Korman & Korman LLP Barristers and Solicitors Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT