

Federal Court



Cour fédérale

Date: 20231117

Docket: IMM-9208-22

Citation: 2023 FC 1522

[ENGLISH TRANSLATION]

Ottawa, Ontario, November 17, 2023

PRESENT: The Honourable Madam Justice Rochester

BETWEEN:

JESUNA DIEULINE LENGOMA

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Jesuna Dieuline Lengoma, is a citizen of the Democratic Republic of Congo [Congo]. She is seeking judicial review of a decision rendered on September 1, 2022, in which the Refugee Appeal Division [RAD] rejected her claim for refugee protection and confirmed the decision of the Refugee Protection Division [RPD] that the applicant is not a

Convention refugee or a person in need of protection under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Decision].

[2] The applicant alleges that she fears persecution in the Congo because she is the daughter of a former deputy of the Congolese Party of Labour who was suspected of participating in a coup d'état in August 2017. The applicant left the Congo in 2014 to study in the United States. In January 2018, the applicant applied for asylum in the United States. Subsequently, the applicant preferred to travel to Canada to file a new refugee protection claim because of the climate of uncertainty in the United States caused by the Trump administration. The applicant filed her refugee protection claim in Canada in early November 2018.

[3] For both the RAD and the RPD, the determinative issue was the prospective risk of persecution for the applicant in the event of her return to the Congo. The RAD concluded that the applicant ascribed intentions to state actors and cited a fear of persecution that she could not demonstrate and that was not corroborated by objective documentary evidence. The RAD understood the applicant's fear, but believed it to be speculative.

[4] The applicant argues that the RAD erred in its analysis of the prospective risk of persecution by requiring her to demonstrate that she herself had been persecuted in the past. The applicant alleges that the RAD erred in failing to take into account the reason for the family link, that her father's political opinions are presumed to be hers as well. From the applicant's point of view, her relationship with her father is sufficient to put her in danger.

[5] Having reviewed the record before the Court, including the written and oral submissions of the parties, as well as the applicable law, the applicant has not persuaded me that the Decision is unreasonable. For the reasons that follow, and notwithstanding the strong argument made by counsel for the applicant, this application for judicial review is dismissed.

II. Standard of review

[6] The parties agree that the applicable standard of review is reasonableness, as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. A reasonable decision is one that is justified in relation to the facts and law that constrain the decision maker (*Vavilov* at para 85). Review according to the standard of reasonableness is both robust and deferential (*Vavilov* at paras 12–13). The reviewing court must show restraint, especially with regard to findings of fact and the weighing of evidence. In the context of an application for judicial review, the reviewing court must refrain from reweighing and reassessing the evidence considered by the decision maker and, absent exceptional circumstances, will not interfere with its factual findings (*Vavilov* at para 125).

III. Analysis

[7] As mentioned above, the issue in this case is the prospective risk of persecution. The RAD concluded that the applicant had not demonstrated that her father's political opinions had been ascribed to her, nor that she would be persecuted if she returned to the Congo.

[8] After reviewing the record, I am not satisfied that the RAD committed a reviewable error in its analysis. It considered the allegations of the applicant and her father, the evidence submitted, the objective documentary evidence, and the absence of hostile actions towards her relatives. The RAD found that the objective evidence did not establish that the children of individuals involved in politics in the Congo are at risk of persecution. The RAD understood the applicant's fear, but believed it to be speculation. On the basis of the record before me, there was simply no evidence, other than the statements of the applicant and her father, that she was at risk in the Congo or that the Congolese authorities would be interested in her.

[9] I agree with the respondent's statement that the existence of family ties alone is simply not sufficient to satisfy the applicant's burden. On the basis of the record before the RAD, it was reasonable for the RAD to conclude that prospective risk had not been established.

[10] Contrary to the applicant's arguments, I do not find that the RAD erred in the way it considered the absence of hostile actions towards the entourage of the applicant's father still living in the Congo. The RAD pointed out that the applicant testified that the authorities had contacted neither her grandparents nor her friends to inquire about her father. I recognize that the applicant would have liked the RAD to treat this evidence differently, but I am not persuaded that there is any reason to intervene on this basis.

[11] I also note the applicant's argument that the RAD should have given her the benefit of the doubt, given that her credibility was not at stake. Unfortunately for the applicant, in the circumstances of this case and in light of the record before the RAD, this argument is not

sufficient to demonstrate that the RAD erred in concluding that she did not establish a serious risk of persecution in the event of her return to the Congo.

[12] Consequently, in my opinion, the applicant failed to demonstrate that the Decision is unreasonable.

IV. Conclusion

[13] For the foregoing reasons, I conclude that the Decision as a whole meets the standard of reasonableness set out in *Vavilov*. The RAD's analysis of the applicant's risk of personal persecution should she return to the Congo is detailed, logical and based on the evidence in the record. The application for judicial review is therefore dismissed. No questions of general application have been submitted for certification, and I agree that there are none.

JUDGMENT in IMM-9208-22

THIS COURT'S JUDGMENT is as follows:

1. The applicant's application for judicial review is dismissed; and
2. There are no questions to certify.

"Vanessa Rochester"

Judge

Certified true translation
Janna Balkwill

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9208-22

STYLE OF CAUSE: JESUNA DIEULINE LENGOMA v MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

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