

Federal Court



Cour fédérale

Date: 20200211

Docket: IMM-3660-19

Citation: 2020 FC 226

Ottawa, Ontario, February 11, 2020

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

**HIWOT TEWELDEBRHAN ABRHA
MUSSE YEMANBRHAN GOITOM**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is a judicial review of the Refugee Protection Division [RPD]’s refusal of a refugee claim by Hiwot Teweldebrhan Abrha. Ms. Abrha’s claim was dismissed because the RPD found her to be Ethiopian, as was the evidence in her passport and other documentation rather than an Eritrean national as she alleged.

II. Background

[2] Ms. Abrha was born in Addis Ababa, Ethiopia, in 1978. She says her parents were born in the Eritrean part of Ethiopia when it was all known as Ethiopia, but moved to Addis Ababa before she was born due to her father's job.

[3] In 1991, Eritrea achieved its independence. In 1998, a war between Eritrea and Ethiopia led the Ethiopian government to deport approximately 75,000 Eritreans to Eritrea (about one-third of the ethnic Eritreans living in Ethiopia at the time). Ms. Abrha's father passed away in 1995 so she was living with her mother when the war erupted. Ms. Abrha says she and her mother were among the Eritreans sent back to Eritrea in 1998. She had other half siblings on her father's side that were not removed to Eritrea because she said their mother was Ethiopian.

[4] From 1998 to 2005, Ms. Abrha indicates that she lived in her mother's village of KeyihKor, Eritrea. In February 2005 she was 26 years old and so she was evading the requirement for all Eritreans between the age of 18 and 50 to perform national service. While shopping in a nearby city, she says she was stopped by two men and asked for a pass document. When she did not produce a pass she was arrested, beaten, and detained. She says she was later conscripted to the Eritrean military.

[5] In August 2005, Ms. Abrha says she suffered serious injuries at the hands of her Eritrean military supervisor after she expressed opposition to conscription by refusing to attend training. After she underwent surgery to treat a blood clot, the Eritrean military allowed her to return to

her home village to heal. When she recovered, she took advantage of this window of opportunity to flee Eritrea to Ethiopia in January 2006. She testified that she travelled by bus, and that it took three days to reach Ethiopia, where she began living with her half-sister's mother.

[6] Ms. Abrha met her eventual husband in April 2007 while she was living in Ethiopia. She says she lacked any identification at this time, so her husband obtained a fraudulent Ethiopian identity card. Using this card, Ms. Abrha was able to procure a valid Ethiopian birth certificate and a genuine Ethiopian passport, even though she says that she was secretly an Eritrean national. She married her Ethiopian husband in February 2008. The couple had their first two sons in 2008 and 2010, and those sons are still in Ethiopia with Ms. Abrha's husband whom she remains in a relationship with. They had a third son in 2015.

[7] In November 2015, Ms. Abrha and her youngest son travelled to the U.S. so that her son could undergo medical treatment. They flew back to Ethiopia in February 2016. Ms. Abrha says she then discovered that the Ethiopian officials had learned she was an Eritrean pretending to be an Ethiopian. She claims she learned this based on comments by her husband's "contacts." It is unclear when exactly Ms. Abrha realized that the Ethiopian authorities were suspicious of her, but she managed to escape Ethiopia with the assistance of the people that acquired the fake ID card for the U.S. in September 2017. She still had a valid U.S. visa at the time from her prior trip. She stayed in the U.S. for about four months before coming to Canada in January 2018.

[8] Once she got to Canada, Ms. Abrha advanced a refugee claim under sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, ch 27 [IRPA]. She submitted that

if sent back to Ethiopia, she would be returned to Eritrea where she will be imprisoned, tortured, and may even disappear since she is an Eritrean national evading her national service duties.

[9] Ms. Abrha's claim is on behalf of herself as well as her youngest son. Her husband and her other two children are listed as additional dependants although they did not accompany Ms. Abrha as they had no U.S. visa and remain in Ethiopia. Her Ethiopian half-sister (through her father's side) lives in Calgary and testified at the RPD hearing. The RPD rejected her claim, finding there was a presumption that she was an Ethiopian national because she had a valid Ethiopian passport, and Ms. Abrha did not rebut this presumption.

III. Issue

[10] The issue is whether the RPD's finding that Ms. Abrha's national identity was Ethiopian because she failed to rebut the presumption created by her Ethiopian passport unreasonable.

IV. Standard of Review

[11] The Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] indicates that there is a presumption of a reasonableness standard of review and the exceptions to the presumption articulated in *Vavilov* do not apply here. For a decision to be reasonable it must be "based on an internally coherent and rational chain of analysis" and "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). The reviewing court is to 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). The burden is on the applicant to show that the decision is unreasonable, and the applicant must show that any shortcomings in the decision “are sufficiently central or significant to render the decision unreasonable” (*Vavilov* at para 100).

V. Analysis

[12] Ms. Abrha argued that the RPD unreasonably focused on Ethiopia as the country of reference rather than Eritrea. She submitted that the situation in Ethiopia and Eritrea is complicated and that the officer did not fully understand and take that into consideration. She argues that the evidence about her Eritrean nationality was uncontested and yet ignored by the RPD. The issues raised by Ms. Abrha include:

- The country condition reports indicated Eritrea and Ethiopia were one country until 1991, and when the border war erupted many ethnic Eritreans living in Ethiopia were deported, and yet the RPD did not address this evidence;
- Ms. Abrha testified that she was conscripted to Eritrean national service. She claims that this is consistent with the country condition evidence that Eritreans must serve in the national service for at least 18 months, and she argues that her conscription suggests Eritrean authorities viewed her as Eritrean (not Ethiopian as the RPD concluded);
- The RPD ignored evidence that it is easy to obtain fraudulent identity cards that can be used to get Ethiopian passports;
- It made sense for her to get Ethiopian documentation rather than Eritrean documentation when she needed documents for her marriage in Ethiopia, as her status in Ethiopia would have been jeopardized if she said she was Eritrean;

- The RPD ignored the fact that Ms. Abrha speaks Tigrinya, an Eritrean language;
- The RPD improperly relied on the fact that she travelled frequently on the Ethiopian passport in its reasons, as all parties agree that this passport was issued by the Ethiopian government; and
- The RPD improperly relied on forms given to the Canada Border Services Agency [CBSA] that she did not understand.

[13] Given that Eritrea and Ethiopia do not recognize dual citizenship, she says the RPD's finding that she was an Ethiopian citizen was unreasonable as it ignored all of this evidence supporting her Eritrean nationality.

[14] The onus is on the Applicants to rebut the presumption that she is Ethiopian. I find that it was reasonable for the RPD to find she did not do that for the reasons below.

[15] The RPD's analysis of the claim began with identity. The RPD member cited *IRPA* and the tribunal's rules which provide that "a claimant who does not provide acceptable documents must explain why they were not provided and what steps were taken to obtain them" (see Annex A for the applicable legislation).

[16] The RPD was satisfied that Ms. Abrha's personal identity was Hiwot Teweldebrhan Abrha. However, there was conflicting evidence as to whether Ms. Abrha was an Ethiopian or Eritrean national.

[17] The RPD member identified the presumption that a passport holder is a national of the country that has issued the passport. It is a longstanding proposition in Canadian law and international law that a passport is *prima facie* evidence of citizenship (*Adar v Canada (Citizenship and Immigration)* (1997), 132 FTR 35). The burden is on the claimant to rebut this presumption (*Abedalaziz v Canada*, 2011 FC 1066 at para 42; *Mathews v Canada*, 2003 FC 1387 at para 11; *Canada v Sabeni*, 2018 FC 800 at para 22). As Justice Russell noted in *Mijatovic v Canada (MCI)*, 2006 FC 685 at para 26, “the passport is evidence of citizenship unless its validity is contested. The onus is then on the applicant to prove that the applicant is of a different citizenship than that indicated in the passport.”

[18] The decision-maker found that on a balance of probabilities, Ms. Abrha is a citizen of Ethiopia rather than Eritrea, meaning the national identity that she built her refugee claim upon was not successfully established. The RPD’s conclusion was supported by several shortcomings in her evidence on national identity analyzed at paras 28–38 of the decision:

- Her argument that she only needed some form of documentation to marry her husband and yet chose to get Ethiopian rather than Eritrean documentation was not a satisfactory explanation for the choice to obtain false Ethiopian documents (para 28);
- She said she had no idea how she obtained the false Ethiopian ID card that was used to procure the other Ethiopian documents because her husband did not tell her (para 29);
- She never provided the alleged fraudulent Ethiopian ID card to the RPD, saying she did not take it with her to Canada, but she provided no evidence to corroborate her allegation regarding the existence of this fraudulent ID card (para 29);

- She initially said her parents' nationalities were listed as Ethiopian on her birth certificate because at the time of her birth Ethiopia and Eritrea were one country, but later changed her story and testified that her birth certificate said her parents were Ethiopian because she lied to officials (para 30);
- Her half-sister did not offer a credible explanation for why their father's birth certificate issued in 2017 did not identify her father's nationality as Eritrean if he were truly Eritrean (para 34);
- She said leaving Ethiopia was easy because the people who helped her husband get the false ID card helped her get out of Ethiopia, but she was unable to provide further details (para 32);
- She represented herself as Ethiopian to obtain a U.S. visa on a prior occasion (para 33);
- She arrived in Canada by travelling through Dubai and the U.S. with her son, both on Ethiopian passports, without difficulty (para 33); and
- When she entered Canada, Ms. Abrha signed forms for the CBSA saying she is an Ethiopian citizen (para 36).

[19] The only corroborating evidence of Eritrean identity was a photocopy of one side of an Eritrean identity card. She did not provide a reasonable explanation for how she came to possess the photocopy (RPD decision at para 37). She also failed to provide any documentation to corroborate her suggestion that her mother is Eritrean. Nor did she provide any documentation of her military conscription, detention or medical reports concerning her alleged injury at the hand of a military commander.

[20] The RPD member ultimately found that while Ms. Abrha had proven her personal identity, she had not proven that her national identity was Eritrean. The reasoning process on this point was coherent and rational. The passport presumption was cited to Ms. Abrha near the start of the hearing: “So, ma’am, because you travelled to Canada on an Ethiopian passport, this creates a presumption of citizenship. So you will need to demonstrate that you are not an Ethiopian citizen.” The RPD then reviewed the documentation and oral testimony, pointing out the several inconsistencies and gaps in Ms. Abrha’s evidence set out above.

[21] Ms. Abrha says the RPD ignored the evidence about her conscription into the Eritrean military and her escape to Ethiopia. This testimony was not ignored and it was mentioned at para 6 of the RPD decision. However, the RPD noted that Ms. Abrha’s story was conflicting and not credible. There was no documentation that she had ever been in the Eritrean military. The only document that supported her Eritrean nationality is a photocopy of one side of an Identity Card indicating she is born in Addis Ababa, Ethiopia but is an Eritrean national. She testified that “the original one was taken away from me but ... a copy happened to be kept by my mother. So she was able to send it to me.” When pressed about this story she said her mother sent the photocopy to someone in Sudan, who mailed it to Canada. As the Respondent points out, Ms. Abrha’s mother provided no direct evidence on this point. The RPD member explained its reasons for giving the Eritrean Identity Card little weight: Ms. Abrha was unable to explain how she obtained the copy, only one side was provided, and there was no other documentation to corroborate her Eritrean identity. This was a reasonable weighing of evidence.

[22] Before the RPD, Ms. Abrha also relied on an Eritrean Identity Card from 1993 indicating her father was born in Eritrea. A 2017 re-print of her father's birth certificate, however, says he is Ethiopian. While Ms. Abrha's counsel astutely argues in their Reply that there was no evidence that Ethiopia would retroactively fix the country listed on the 1993 document to Eritrea when re-printing her father's 2017 birth certificate, the onus is on Ms. Abrha to rebut the presumption that her Ethiopian passport shows her to be an Ethiopian national, which she has not done. The RPD found she had not provided convincing evidence that her father was in fact Eritrean. She provided no documentation showing her mother to be Eritrean. Ms. Abrha's own birth certificate lists her parents as Ethiopian, and she offered conflicting testimony on whether this was because she used her false ID to get the birth certificate, or whether she was born when Eritrea was part of Ethiopia.

[23] Ms. Abrha's other arguments raised on judicial review about certain aspects of her evidence being ignored (as listed above at para 11) are insufficient to show that the decision-maker's chain of analysis was unreasonable. Many of these arguments are requests to re-weigh evidence which is not the role of the reviewing court (*Vavilov* at para 125).

[24] For example she argues that the deportation of her and her mother to Eritrea during the border war shows that authorities perceived her to be a national of Eritrea (approximately 75,000 Eritreans were deported during the war according to a Human Rights Watch report that was before the RPD). However, the evidence about the war was not ignored as Ms. Abrha argues, but rather the RPD noted her claim that she was deported to Eritrea in para 5 of the reasons. The RPD showed an awareness of the fact that Ethiopia and Eritrea were once one country in para 34,

and there were extensive submissions about Eritrea-Ethiopia relations by counsel at the RPD hearing to provide the context about the war and deportations (Certified Tribunal Record [CTR] at pages 348–352).

[25] The RPD listened to this evidence and then analyzed the refugee claim from a position that the claimant had to prove her national identity because the valid Ethiopian passport gives rise to a presumption that Ms. Abrha is an Ethiopian citizen. She did not rebut the presumption as she had no credible documentation and her oral testimony did not rebut the presumption. The country condition reports do not show this decision was unreasonable, especially in light of the hearing transcript that shows the RPD was alive to the nuances in the histories of Eritrea and Ethiopia.

[26] In addition, Ms. Abrha claims the decision-maker ignored the evidence on how easy it is to obtain false Ethiopian identity documents (*IRB Response to Information Request*, page 100 of Applicants' record). This may be a flaw in the RPD's decision however "any alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision" (*Vavilov* at para 100).

[27] Ms. Abrha never produced this identity card that she claims was fraudulently procured. Even if the decision-maker ignored the evidence that it is easy to get fraudulent documents in Ethiopia, it does not logically follow that each person who does obtain Ethiopian documents can claim they are really nationals of a different country when they advance a refugee claim. Instead, when an individual obtains a valid Ethiopian passport it is up to them to rebut the presumption

that they are Ethiopian. As the Respondent argued in its further memorandum, there was no corroborative evidence from Ms. Abrha's husband about how he got the fraudulent identity documents and Ms. Abrha's testimony on this point was at best vague and that she did not know how he obtained it. Given that the same people that procured the fake card then years later helped her out of the country, it is hard to imagine her story that she does not know who they are or how her husband obtained the Ethiopian identify card. General evidence about the ease of obtaining fraudulent does not go to the heart of the decision-maker's conclusions about Ms. Abrha's national identity.

[28] Ms. Abrha argued that it made sense for her to get Ethiopian documents rather than Eritrean ones to prove her identity before her marriage, as her status in Ethiopia could be jeopardized if she was discovered to be an Eritrean living in Ethiopia. The RPD's suggestion at para 28 that she "did not satisfactorily explain why, when she needed identification documents, that she chose to procure documents that incorrectly stated she was Ethiopian instead of Eritrean" might be a defect in the decision. But it does not necessarily follow that Ms. Abrha's claim that she was Eritrean is to be accepted. Whether she was Eritrean or Ethiopian, it would make sense for her to desire to use Ethiopian documents to get her marriage approved. This point is ultimately neutral to the finding that Ms. Abrha failed to rebut the presumption of Eritrean nationality. The RPD cited it as one of many reasons to support its decision but this finding was not a central point to the decision.

[29] Another position taken by Ms. Abrha is that she spoke Tigrinya throughout the hearings which is an Eritrean language. This fact alone is not enough to suggest Ms. Abrha is an Eritrean

national, as the country condition reports show an estimated 150,000 ethnic Eritreans remained in Ethiopia following the border war, and she could have acquired the language within Ethiopia. She is also comfortable with the Ethiopian language Amharic (CTR at page 330). Her linguistic choice at the hearing does not make the RPD's decision on national identity unreasonable. In fact, her testimony was that when she returned to Ethiopia because she was born there she understood the culture and acted like an Ethiopian so no one thought she was Eritrean.

[30] Ms. Abrha's submitted that the RPD should not have relied on her prior travel using the valid Ethiopian passport as proof she is Ethiopian. But I find that this is a relevant consideration in determining whether Ms. Abrha has rebutted the presumption that her Ethiopian passport proves that she is an Ethiopian citizen. The RPD at para 27 recorded her argument that the passport was genuinely issued by Ethiopia although on a fraudulent basis. But there was limited corroborative evidence of her Eritrean nationality, and the continued use of the Ethiopian passport goes against her position that she is Eritrean not Ethiopian. Ms. Abrha is again asking for a re-weighing of evidence, suggesting this passport and the prior travel using the passport should be given less weight.

[31] A final evidentiary argument by Ms. Abrha is that the RPD should not have relied on the refugee claim forms saying she is an Ethiopian because she signed them without understanding of what they said. However, the RPD member explicitly mentioned Ms. Abrha's attempt to correct the forms which is that she trusted the interpreter and did not verify what was on the CBSA forms. The RPD also mentioned the fact that Ms. Abrha stated in her verbal interview at the port of entry that she is Eritrean. The RPD then referred to the CBSA officer's notes

accompanying the forms which mentioned Ms. Abrha's claim that she is an Eritrean travelling under a fraudulently obtained valid Ethiopian passport. Referring to these forms and the notes were just a few of the several pieces of evidence to show that Ms. Abrha did not rebut the presumption that she was Ethiopian and the reasons show the RPD properly considering her argument about the forms.

[32] Additionally, I agree with the Respondent that this treatment of her story about deportation to Eritrea was not a violation of the presumption of truthfulness for refugee claimants (*Mahmood v Canada (MCI)*, 2005 FC 1526 at para 18). Ms. Abrha was travelling on an Ethiopian passport and in fact it was her burden to rebut the presumption that she was an Ethiopian national.

[33] The RPD member's decision is reasonable in light of the international legal constraints in refugee law which can "help to inform whether a decision was a reasonable exercise of administrative power" (*Vavilov* at para 114). In particular, para 93 of the United Nations' *Handbook on Procedures and Criteria for Determining Refugee Status* (1979) states:

Nationality may be proved by the possession of a national passport. Possession of such a passport creates a prima facie presumption that the holder is a national of the country of issue, unless the passport itself states otherwise. A person holding a passport showing him to be a national of the issuing country, but who claims that he does not possess that country's nationality, must substantiate his claim, for example, by showing that the passport is a so-called "passport of convenience" (an apparently regular national passport that is sometimes issued by a national authority to non-nationals). However, a mere assertion by the holder that the passport was issued to him as a matter of convenience for travel purposes only is not sufficient to rebut the presumption of nationality. In certain cases, it might be possible to obtain information from the authority that issued the passport. If such

information cannot be obtained, or cannot be obtained within reasonable time, the examiner will have to decide on the credibility of the applicant's assertion in weighing all other elements of his story.

[34] The RPD member acted in line with this guidance when confronted with the genuine Ethiopian passport. I find that the RPD member's chain of analysis was transparent, justifiable and intelligible. The decision-making path was rationale in light of the presumption generated by her Ethiopian passport and Ms. Abrha's limited, often-conflicting evidence. Her arguments are akin to a treasure hunt for errors, and she is asking the Court to re-weigh the conflicting evidence.

[35] This Ethiopian identity finding means the proper country of reference for a refugee claim was Ethiopia. She did not advance a claim that she would be persecuted in Ethiopia, likely because the evidence showed "there is no recent evidence that Ethiopians of Eritrean origin living in Ethiopia are at risk of persecution" (Home Office report at page 68 of Applicants' record). Her husband is Ethiopian and the couple's children are listed as "Ethiopian/Eritrean" on her basis of claim form and they seem to be living in Ethiopia without issue, which further undermines the argument that ethnic Eritreans cannot live safely in Ethiopia.

[36] The RPD did not need to analyze Ms. Abrha's fear of return to Eritrea because "if a refugee claimant has the right to live in a country that can protect him or her, then Canada's obligation to provide surrogate protection is not engaged" (*Becirevic v Canada (MCI)*, 2015 FC 447 at para 11). In *Becirevic*, the passport presumption was not rebutted, meaning the claimants travelling on Hungarian passports were considered citizens of Hungary and the fear of

persecution analysis only had to focus on Hungary and not Serbia. Justice Boswell's decision in *Becirevic* was reiterated in *Tsiklauri v Canada (MCI)*, 2016 FC 812 at paras 9–10. The situation is analogous here: Ethiopia was the proper country of reference, not Eritrea.

[37] This means the decision to dismiss the section 96 and 97(1) claims was reasonable.

[38] There were no certified questions presented and none arose.

JUDGMENT in IMM-3660-19

THIS COURT'S JUDGMENT is that:

1. This application is dismissed;
2. No question is certified.

"Glennys L. McVeigh"

Judge

Annex A – Relevant legislation

Immigration and Refugee Protection Act, SC 2001 c 27

Convention refugee

96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

Person in need of protection

97 (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that

Loi sur l'immigration et la protection des réfugiés, LC 2001 ch 27

Définition de réfugié

96 A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

Personne à protéger

97 (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement

country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

pas,

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

Documents and information to be provided

100(4) A person who makes a claim for refugee protection inside Canada at a port of entry and whose claim is referred to the Refugee Protection Division must provide the Division, within the time limits provided for in the regulations, with the documents and information — including in respect of the basis for the claim — required by the rules of the Board, in accordance with those rules.

Claimant Without Identification

Credibility

106 The Refugee Protection Division must take into account, with respect to the credibility of a claimant, whether the claimant possesses acceptable documentation establishing identity, and if not, whether they have provided a reasonable explanation for the lack of documentation or have taken reasonable steps to obtain the documentation.

Renseignements et documents à fournir

100(4) La personne se trouvant au Canada, qui demande l'asile à un point d'entrée et dont la demande est déferée à la Section de la protection des réfugiés est tenue de lui fournir, dans les délais prévus par règlement et conformément aux règles de la Commission, les renseignements et documents — y compris ceux qui sont relatifs au fondement de la demande — exigés par ces règles.

Étrangers sans papier

Crédibilité

106 La Section de la protection des réfugiés prend en compte, s'agissant de crédibilité, le fait que, n'étant pas muni de papiers d'identité acceptables, le demandeur ne peut raisonnablement en justifier la raison et n'a pas pris les mesures voulues pour s'en procurer.

*Refugee Protection Division Rules,
SOR/2012-256*

*Règles de la Section de la protection des
réfugiés, DORS/2012-256*

**Documents Establishing Identity and
Other Elements of the Claim**

**Document établissant l'identité et autres
éléments de la demande**

11 The claimant must provide acceptable documents establishing their identity and other elements of the claim. A claimant who does not provide acceptable documents must explain why they did not provide the documents and what steps they took to obtain them.

11 Le demandeur d'asile transmet des documents acceptables qui permettent d'établir son identité et les autres éléments de sa demande d'asile. S'il ne peut le faire, il en donne la raison et indique quelles mesures il a prises pour se procurer de tels documents

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3660-19

STYLE OF CAUSE: HIWOT TEWELDEBRHAN ABRHA ET AL v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: FEBRUARY 3, 2020

JUDGMENT AND REASONS: MCVEIGH J.

DATED: FEBRUARY 11, 2020

APPEARANCES:

Ms. Lisa Couillard FOR THE APPLICANTS

Ms. Maria Green FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lisa Couillard FOR THE APPLICANTS
Barrister & Solicitor
Calgary, Alberta

Attorney General of Canada FOR THE RESPONDENT
Edmonton, Alberta