

Federal Court



Cour fédérale

**Date: 20210921**

**Docket: IMM-6249-20**

**Citation: 2021 FC 972**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, September 21, 2021**

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

**BETWEEN:**

**ELOHIM TANDA LUSUNGAMA NSUMBU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a decision of the Refugee Protection Division [RPD] dated October 22, 2020, rejecting the claim for refugee protection of Elohim Tanda Lusungama Nsumbu [Elohim], a child who is nearly 5 years of age. The RPD found that there was no credible basis for Elohim's claim under subsection 107(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] Elohim's father, Charly Nsumbu Tanda, his mother, Beneth Mwaka, and his brother, Glorieux Tanda Mabongo Nsumbu, fled the Democratic Republic of Congo and arrived in Brazil in February 2016. Elohim was born in Brazil in September 2016. In February 2019, Elohim and his family left Brazil and travelled across the continent to Canada. When they arrived in July 2019, the family claimed refugee protection.

[3] The RPD rejected each family member's claim for refugee protection, determining that they were neither Convention refugees nor persons in need of protection under sections 96 and 97 of the IRPA. Since the other family members' refugee protection claims were not found to be without a credible basis, the other family members availed themselves of their right to appeal to the Refugee Appeal Division [RAD], which dismissed their appeal on January 22, 2021, for failure to perfect the appeal record. The RAD's decision was not challenged before the Court.

[4] At the start of the hearing, Elohim indicated through his counsel that, although he disagreed with the rejection of his claim, he did not dispute the position of the Minister of Citizenship and Immigration [Minister] that the RPD was reasonable in its decision to find that there was no credible basis for the claim.

[5] I am also of the opinion that the RPD's decision was reasonable. Elohim failed to provide any documentary evidence that he could be persecuted in Brazil. The RPD raised a credibility issue with his father's testimony regarding the family's reasons for leaving Brazil and had no other evidence on which to rely to recognize Elohim's refugee status.

[6] Consequently, the application for judicial review will be dismissed. In addition, Elohim is not challenging the Minister's request to amend the style of cause in this case pursuant to paragraph 5(2)(b) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, and subsection 4(1) of the IRPA to designate the Minister of Citizenship and Immigration as the appropriate respondent.

**JUDGMENT in IMM-6249-20**

**THIS COURT'S JUDGMENT is as follows:**

1. The application for judicial review is dismissed.
2. The style of cause is amended to designate the Minister of Citizenship and Immigration as the appropriate respondent.
3. There is no question to certify.

“Peter G. Pamel”

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Judge

Certified true translation  
Sebastian Desbarats

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

**DOCKET:** IMM-6249-20

**STYLE OF CAUSE:** ELOHIM TANDA LUSUNGAMA NSUMBU v THE  
MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEO CONFERENCE

**DATE OF HEARING:** SEPTEMBER 20, 2021

**JUDGMENT AND REASONS BY:** PAMEL J

**DATED:** SEPTEMBER 21, 2021

**APPEARANCES:**

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Guillaume Bigaouette FOR THE RESPONDENT

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