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Al Manai v. Canada (Citizenship and Immigration), 2026 FC 620

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Federal Court Cour fédérale

Date: 20260513

Docket: IMM-1633-24

Citation: 2026 FC 620

2026 FC 620 (CanLII)

Ottawa, Ontario, May 13, 2026

PRESENT: Madam Justice Conroy

BETWEEN:

KAFA MAHMOUD NAJI AL MANAI
WARD FALEH QUFTAN AL DWAIRI
WOROOD FALEH QUFTAN AL DWAIRI
FALEH QUFTAN FALEH AL DWAIRI
ROSE FALEH QUFTAN AL DWAIRI
HABEEB FALEH QUFTAN AL DWAIRI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is a judicial review of a decision of the Refugee Protection Division [RPD] dated January 8, 2024. The RPD determined that the Applicants are not refugees or persons in need of protection. The determinative issue was credibility.

[2] For the reasons that follow, the application is dismissed. The Applicants have not established that the RPD's decision was unreasonable.

I. MATERIAL FACTS

[3] Ms. Kafa Mahmoud Naji Al Manai [Principal Applicant], her husband, Mr. Ward Faleh Quftan Al Dwairi [Associate Applicant], and their four children [Minor Applicants, and together with their parents, the Applicants] are citizens of Jordan. Their claim for protection is based on a risk of persecution in Jordan from extended family due to the Principal Applicant's sexual orientation.

[4] The Basis of Claim form states that the Principal Applicant had an affair with her female gym trainer, J, while the family was living in the United Arab Emirates [UAE]. They allege that the Associate Applicant's brothers who live in the UAE found out about the romantic relationship between J. and the Principal Applicant, verbally threatened her, and pressured the Associate Applicant to divorce her.

[5] To escape the threats, the Applicants moved back to Jordan in June 2022. By that time, rumors about her relationship with J. had reached her family in Jordan. The Principal Applicant's sister warned her that her brothers had bought weapons and announced they would kill her to "wash our family shame."

[6] Every day between July 10 and 13, 2022, the Principal Applicant's brothers and brothers-in-law visited the family home and beat her in front of her husband and children. The Associate Applicant's brothers also threatened to take her children away from her.

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[7] On July 13, the brothers beat the Principal Applicant and threatened to kill her with a knife. Thereafter the family took a flight to the United States [US].

[8] On July 16, 2022, the family crossed the US border to Canada. They were allowed entry because the Principal Applicant has a sister in Canada: *Immigration and Refugee Protection Regulations* [IRPR], SOR/2002-227, s. 159.5. They made a claim for refugee protection upon entry.

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II. RPD DECISION UNDER REVIEW

[9] The RPD found there were "significant reasons to doubt the truthfulness of the claimants' allegations that the principal claimant genuinely identifies as bisexual, that she was in a relationship with J, or that she faced mistreatment due to her sexual orientation."

[10] Specifically, it concluded that the Applicants provided fraudulent photographs which purportedly showed injuries inflicted upon the Principal Applicant and one of her sons by their extended family members. The RPD said the Principal Applicant's testimony evolved in response to questions about the pictures. The RPD noted that a picture of the Principal Applicant's alleged injury appeared to be "be filtered or altered" and raised "the concern that the injury in the photograph is not genuine." The RPD explained:

> The counsel for the claimant offered to have the principal claimant show that the photograph is in the gallery application of her cell phone to show that the photo was not taken using a filter or was not altered. However, photograph being in the gallery application does not alleviate the panel's concerns that the photograph does not show a genuine injury.

[11] The RPD concluded “that there is a likelihood that the injuries in the photographs are not genuine injuries” and drew a “negative credibility inference.” In the view of the RPD this impacted the Principal Applicant’s overall credibility and rebutted the presumption of truthfulness that she faced attacks and harassment from relatives.

[12] The Principal Applicant testified to going on a trip to Jordan alone with J.. She provided photos of them on the trip. The RPD raised questions about one photo which showed the couple in a restaurant with a third set of legs under the table, and three cellphones on the table. The RPD found that this photo, combined with the Principal Applicant’s evolving testimony, cast doubt on the Principal Applicant’s assertion that she and J. travelled together as romantic partners to Jordan in 2019 alone. It concluded that this “credibility concern is serious and casts doubt on the claimant’s allegation that J. and the claimant were in a clandestine relationship together.”

[13] Based on the above, the panel found the Principal Applicant was not credible and found this impacted the reliability of several other documents. The panel concluded that the additional documentary evidence (such as threatening text messages, hospital reports, and letters from the Principal Applicant’s sister and J.), when taken together with the credibility concerns arising from the Principal Applicant’s direct evidence, insufficient to establish her claim.

A. *Applicants since removed from Canada*

[14] Pursuant to the Safe Third Country Agreement, a negative decision from the RPD cannot be appealed to the Refugee Appeal Division [RAD]: *Immigration and Refugee Protection Act*, SC 2001, c 27, s. 110(2)(d). The Applicants’ only recourse was to seek judicial review of the

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RPD decision. Claimants in this position do not benefit from an automatic stay of removal pending the disposition of their judicial review: IRPR, s 231(1).

[15] Before leave was granted on this Application, the family was directed to report for removal. Their motion to stay the removal was dismissed. On July 24, 2024, they were removed from Canada.

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[16] The Respondent's written submissions briefly raised and conceded the issue of mootness. Given that the Respondent does not rely on mootness, I will determine this application on the grounds raised by the Applicant.

III. ISSUES AND STANDARD OF REVIEW

[17] The Applicants raise the following issues:

a. Did the RPD err in finding the photo evidence to be fraudulent?

b. Did the RPD err in its assessment of the Principal Applicant's oral testimony about the trip with J.?

c. Did the RPD err by overlooking the evidence supportive of the claim?

d. Did the RPD fail to apply "Proceedings Before the IRB Involving Sexual Orientation, Gender Identity and Expression, and Sex Characteristics" [SOGIESC Guidelines]

[18] The parties agree, and I concur, that the applicable standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 25 [*Vavilov*].

A. *RPD's treatment of photo evidence*

[19] The Applicants take issue with the RPD's authenticity concerns with respect to two photos showing the Principal Applicant and her son's injuries.

[20] First, they say that the RPD erred by refusing to view the photo of the Principal Applicant's face on the gallery application of her cellphone.

[21] I disagree. It was open to the RPD to consider that, even if the photo appeared in the gallery application of the cell phone, this would not be of assistance in alleviating their concern that it was altered.

[22] Second, the Applicants say it was unreasonable for the RPD to find that "the existence of a filter necessarily means that the injury depicted in the photograph is not genuine." They also take issue with the RPD's observation of the injury depicted in the photo of the Minor Applicant, namely that it noted the lack of a bruise, because the RPD is not a medical expert capable of drawing such conclusions.

[23] In my view, the Applicants simply disagree with the panel's observations on the evidence before it, and the conclusions it reached. They do not argue that there were any factual constraints which precluded such findings, nor do they suggest there was evidence to contradict the findings. They simply assert that the findings were not supported by the evidence. The Applicants, in effect, ask the Court to re-weigh the evidence; it is trite law that this is not the Court's role on judicial review: *Vavilov* at para 125.

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[24] The Applicants say the RPD's finding that the Principal Applicant's answers to questions about the photo evidence were evasive amounted to a failure to meaningfully engage with her evidence about the circumstances surrounding the attack. Again, the Applicants are, in effect, disagreeing with the RPD's evaluation of the evidence and the fact that the panel was not persuaded by the Principal Applicant's responses, or lack thereof. It is not for this Court to re-assess this evidence and the RPD's factual findings "absent exceptional circumstances": *Vavilov* at para 125.

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B. *Testimony Regarding Trip with J.*

[25] The Applicants argue that the RPD misunderstood the Principal Applicant's testimony about her trip with J.. They assert that, while the RPD understood that she said she traveled alone to Jordan with J., the Principal Applicant actually said that J. came to see her when she was in Jordan, and that some of their outings were just the two of them alone. Accordingly, they submit that the Principal Applicant's testimony was that, while in Jordan, the couple was sometimes alone, and sometimes with family.

[26] Upon listening to the audio recording of the RPD hearing, I note that the Principal Applicant's testimony was that J. would visit her in Jordan, and that on these visits, they would take trips alone to places like the Dead Sea and Petra. She confirmed that on these trips her and J. would go alone and rent a cottage.

[27] The RPD asked the Principal Applicant about who took the photos of the couple on a cottage trip in June 2019. The Applicant responded that the photo of them at the restaurant on

this trip was taken by other women there. Photos of them elsewhere in the resort or cottage were taken by security guards.

[28] Therefore, it is true that the RPD's reasons are not entirely accurate when they state that the Principal Applicant testified that "she went on a trip to Jordan with J and no one else". A more accurate statement would have been that she went on sightseeing trips ***within*** *Jordan* with J. and no one else. However, this is a minor misstep: *Vavilov* at para 100. The RPD's understanding that the photos submitted of the Principal Applicant and J. on this cottage trip were during a time in which they would have been alone together remains true.

[29] The panel's underlying understanding that, while on the trip in which the photo at the restaurant was taken, the Principal Applicant and J. were allegedly alone, was not misconceived. The panel was not persuaded that the couple was indeed alone, as testified, because of details in this photo. Ultimately, while the Applicants have successfully identified a factual discrepancy between the reasons and the testimony provided, it is a peripheral factual finding which in no way affects the RPD's concern that, contrary to the Principal Applicant's testimony, she and J. were not travelling alone as a couple on the trip in which they were photographed at the restaurant.

C. *Failure to Independently Consider Corroborative Evidence*

[30] The Applicants submit that the RPD had a duty to consider the evidence as a whole and say it was an error for the RPD to reject potentially corroborative evidence due to the adverse

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credibility finding alone: *Li v Canada (Citizenship and Immigration)*, 2019 FC 307 at para 18 [*Li*].

[31] The Court in *Li* accepted that it is "no doubt true as a general proposition" that the RPD can find "'overall credibility [to] affect the weight given to the documentary evidence'": para 18, citing *Huang v Canada (Citizenship and Immigration)*, 2011 FC 288 at paras 21-22. However, *Li* goes on to state that such adverse credibility findings *alone* are insufficient grounds for rejecting potentially corroborative evidence; an examination of the evidence independent of concerns about the Applicant's credibility is required before it can be rejected: para 18, citing, *inter alia*, *Yu v Canada (Citizenship and Immigration)*, 2015 FC 1138 at paras 31-37 and *Lu v Canada (Citizenship and Immigration)*, 2016 FC 846 at paras 33-35. Otherwise, the decision-maker "risks reasoning in a way that begs the very question at issue: the corroborative evidence is not believed simply because the claimant is not believed": para 18.

[32] The Applicants say that the RPD cursorily dismissed probative, supportive and standalone evidence on the basis of its prior credibility finding.

[33] The Respondent relies on *Awonuga v Canada (Citizenship and Immigration)*, 2024 FC 27 at para 32 [*Awonuga*] for the proposition that, "when there are credibility concerns that go to the veracity of a claim, the RPD may reject the remaining documents based on a lack of credibility." *Awonuga* goes on to cite several cases where "the Court rejected arguments that a credibility finding could not extend to accompanying documentary evidence where reasons are provided, and where cumulative inconsistencies and contradictions, as a whole, may seriously undermine the overall credibility of a claimant": para 32.

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[34] While the two lines of cases cited by the parties are not necessarily contradictory, there is a tension between them which was recognized in *Tofa v Canada (Citizenship and Immigration)*, 2023 FC 315 [*Tofa*], where the Court made the following comments (paras 18-20):

> [18] There is support in the case law for the proposition advanced by the Respondent that once a credibility finding is made it is open to the tribunal to find that corroborating evidence is insufficient to outweigh credibility concerns: *Kaiyaga v Canada (Minister of Citizenship and Immigration)*, 2022 FC 541 at para 55 and 56 and *Raza v Canada (Minister of Citizenship and Immigration*), 2021 FC 299 at para 43.
>
> [19] In Brahim v Canada (Minister of Citizenship and Immigration), 2015 FC 1215 at para 17 the Court wrote:
>
> > Since the RPD did not find the Applicant credible nor believed the underlying facts of his claim, it was entirely open for the RPD to give no evidentiary weight to the doctor's assessment or the letter from his cousin (*Murji v Canada (Minister of Citizenship and Immigration)*, 2004 FC 148, at para 16; *Danailov v Canada (MCI)*, [1993] FCJ No 1019, at para 2; *Garcha v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 1012, at paras 19-21, 2002 FCJ No 1393).
>
> [20] However, another line of reasoning holds that the tribunal must consider documentary evidence supporting an applicant's story before reaching a conclusion on the applicant's credibility: *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1583 at para 26.

[35] The Court in *Tofa* found the latter proposition - that the tribunal must consider corroborative evidence before reaching a conclusion on credibility - to be "more applicable in the context" of the case before it (para 20).

[36] I note that in another set of cases, this Court has found that a tribunal may give "documents little weight based on its prior, and significant credibility findings against the Applicant," and then consider whether the corroborative documents were sufficient to "overcome

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the negative credibility findings": *Wickramasinghe Arachchige Dona v Canada (Citizenship and Immigration)*, 2019 FC 419 at paras 30-33 [*Wickramasinghe*]; *Gutierrez Medina v Canada (Citizenship and Immigration)*, 2023 FC 591 at para 38 [*Gutierrez Medina*].

[37] I consider the RPD's reasons here to reflect the permissible sort of reasoning discussed in *Wickramasinghe* and *Gutierrez Medina*. The RPD did not outright dismiss the documents, although it found them to be "impacted" by the Principal Applicant's credibility concerns. It considered the evidence and found that it was not enough to establish the Applicants' allegations "when taken together with the credibility concerns stemming from [her] direct evidence." There was nothing unreasonable about this approach.

D. *Failure to Apply SOGIESC Guidelines*

[38] The Applicants say that it was not enough for the RPD to simply recite that it considered the SOGIESC Guidelines. I agree that such a statement could not cure a decision which clearly failed to apply the Guidelines.

[39] However, it is similarly insufficient for the Applicants to simply assert that after such "recitation," the RPD proceeded to consider the case without regard to the Guidelines – the Applicants must point to a portion of the SOGIESC Guidelines and demonstrate how the decision failed to respect them. To say there is "nothing to suggest that the RPD meaningfully engaged with these Guidelines" misunderstands the burden at issue; it is for the Applicants to show where and how the Guidelines were disregarded. They have failed to do so.

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IV. CONCLUSION

[40] The Applicants have not established that the RPD's decision unreasonable and therefore the judicial review is dismissed.

[41] No question for certification was proposed, and none arises.

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JUDGMENT in IMM-1633-24

THIS COURT'S JUDGMENT is that:

1. The Application for Judicial Review is dismissed.

2. There is no question for certification.

3. No costs are awarded.

"Meaghan M. Conroy"
Judge

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1633-24
STYLE OF CAUSE:	KAFA MAHMOUD NAJI AL MANAI, WARD FALEH QUFTAN AL DWAIRI, WOROOD FALEH QUFTAN AL DWAIRI, FALEH QUFTAN FALEH AL DWAIRI, ROSE FALEH QUFTAN AL DWAIRI, HABEEB FALEH QUFTAN AL DWAIRI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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DATED:	MAY 13, 2026

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