

Federal Court



Cour fédérale

Date: 20180423

Docket: IMM-4152-17

Citation: 2018 FC 428

Ottawa, Ontario, April 23, 2018

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

ADEN ABDI HADUN

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. INTRODUCTION

[1] This is an application under s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act], for judicial review of the decision of a Senior Immigration Officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC], dated September 8, 2017 [Decision], which refused the Applicant's application for permanent residence on humanitarian and compassionate [H&C] grounds.

II. BACKGROUND

[2] The Applicant is a citizen of Somalia. He arrived in Canada by crossing the border from the United States on June 10, 2014 and made a refugee claim. The Applicant had made a claim for asylum in the United States in 2013, but that claim was rejected. The Applicant says that, since he feared removal to Somalia, he fled to Canada after being ordered to leave the United States.

[3] In his refugee claim before the Immigration and Refugee Board of Canada [IRB], the Applicant alleged that he was from the town of Buale in an area of Somalia that was taken over by Al Shabaab. He claimed that he was captured by Al Shabaab in November 2008 and tortured, but that he managed to escape the Al Shabaab camp and then fled Somalia. The Applicant says that he eventually reached South Africa, where he was granted temporary status, but was forced to flee in 2013 after attacks by xenophobic South African mobs.

[4] The IRB rejected the Applicant's refugee claim on credibility and identity grounds in a decision dated February 19, 2015.

[5] On September 14, 2016, IRCC received the Applicant's application for permanent residence in Canada on H&C grounds.

III. DECISION UNDER REVIEW

[6] The Officer determined that the factors put forward by the Applicant do not justify granting an exemption under s 25(1) from the requirements of the Act.

[7] The Officer evaluated the Applicant's establishment in Canada and found that the Applicant has the expected level of establishment based on the length of time he has been in Canada. The Officer notes that the Applicant provided evidence of efforts to be self-sufficient and economically productive. He submitted payroll statements to validate his employment and earnings while in Canada and bank statements indicating sound financial management. The Applicant has also been involved in his community as a member of his mosque and has been pursuing academic upgrading by taking English as a second language and business and computer classes at an adult learning centre. The Officer commends the Applicant's efforts in this regard, but finds that, given the amount of time the Applicant has spent in Canada, his establishment into Canadian society is no more than would normally be expected. The Officer also finds that the Applicant knew that his establishment efforts were subject to the removal order made against him, and the uncertainty of his status in Canada. All in all, the Officer gives little weight to the Applicant's establishment.

[8] The Officer also finds that the adverse country conditions in Somalia do amount to some hardship, but not enough to justify an exemption from the Act on H&C grounds. The Officer notes that the factors identified by the Applicant that amount to hardship are largely the same as those on which he based his refugee claim. The Officer recognizes that the IRB's findings are

not binding, but gives considerable weight to the IRB's rejection of the Applicant's claims about being kidnapped by Al Shabaab. And a report from the United Kingdom Home Office states that the majority of civilians are not considered targets by Al Shabaab and are unlikely to be targeted unless they have a government or international profile or perceived link. See *Country Policy and Information Note: Somalia (South and Central): Fear of Al Shabaab*, Version 2.0 (July 2017) at para 2.2.7 [UK Home Office Report]. The Officer finds that the Applicant's activities and profile would not lead to Al Shabaab targeting him.

[9] The Officer also accepts that Somalia is less prosperous than Canada after two decades of warfare and the lack of a functioning central government. But the Officer concludes that the Applicant's reintegration and re-establishment in Somalia are an ordinary consequence of removal from Canada and that the task of finding employment in Somalia's labour market is incidental to that process. The Officer therefore finds that being forced to apply for permanent residence from Somalia would not amount to sufficient hardship for the Applicant to justify relief on H&C grounds.

[10] Weighing the establishment and adverse country conditions factors together, the Officer is not satisfied that an exemption under s 25(1) of the Act is justified.

IV. ISSUES

[11] The Applicant submits that the following issues arise in this application:

1. Is the Officer's assessment of the Applicant's establishment in Canada unreasonable?
2. Does the Officer unreasonably misconstrue or ignore the totality of the evidence?

V. STANDARD OF REVIEW

[12] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*], held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of review applicable to a particular question before the court is settled in a satisfactory manner by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless, or where the relevant precedents appear to be inconsistent with new developments in the common law principles of judicial review, must the reviewing court undertake a consideration of the four factors comprising the standard of review analysis: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 48.

[13] An immigration officer's evaluation of the factors in an H&C application and assessment of the evidence is reviewable under a standard of reasonableness. See *Kanthisamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 44-45 [*Kanthisamy*]; *Baco v Canada (Citizenship and Immigration)*, 2017 FC 694 at para 11 [*Baco*].

[14] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with “the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.” See *Dunsmuir*, above, at para 47, and *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59. Put another way, the Court should intervene only if the Decision was unreasonable in the sense that

it falls outside the “range of possible, acceptable outcomes which are defensible in respect of the facts and law.”

VI. STATUTORY PROVISIONS

[15] The following provisions of the Act are relevant in this application:

**Humanitarian and
compassionate
considerations — request of
foreign national**

25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

**Séjour pour motif d’ordre
humanitaire à la demande de
l’étranger**

25 (1) Sous réserve du paragraphe (1.2), le ministre doit, sur demande d’un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c’est en raison d’un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d’un étranger se trouvant hors du Canada — sauf s’il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s’il estime que des considérations d’ordre humanitaire relatives à l’étranger le justifient, compte tenu de l’intérêt supérieur de l’enfant directement touché.

VII. ARGUMENT

A. *Applicant*

(1) Establishment

[16] The Applicant submits that the Officer's assessment of his establishment in Canada is unreasonable because the Officer's reasons are uninformative and the Decision fails to explain why his establishment was insufficient. The Applicant provided evidence of schooling, his ability to support himself financially, and letters of support from his mosque, as well as from the Rexdale Women's Centre, and other individuals in Canada. Yet the Officer finds that the Applicant's establishment is no more than what is normally expected without indicating what would amount to adequate establishment. This sort of approach to assessing establishment was criticized in *Chandidas v Canada (Citizenship and Immigration)*, 2013 FC 258 at para 80, and *Baco*, above, at para 18. The Applicant also says that, having accepted some degree of establishment in Canada, the Officer's failure to examine whether disruption of that establishment justifies an exemption is unreasonable. See *Ndlovu v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 878 at para 15 and *Sebbe v Canada (Citizenship and Immigration)*, 2012 FC 813 at para 21 [*Sebbe*].

[17] The Applicant submits that the case relied on by the Respondent, *Regalado v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 540 [*Regalado*], is distinguishable because the applicant in that case entered Canada on a work permit and submitted an H&C application after over three years in Canada. The Applicant says that in the Decision, the Officer's reasoning

is based on the Applicant having “received due process through the refugee determination system” and that this is not the same reasoning process as *Regalado*. Instead, the Officer’s reasoning resembles the reasoning in *Sebbe*, which also credited the immigration and refugee system for allowing time for the H&C applicant’s establishment. See *Sebbe*, above, at para 21.

[18] The Applicant says that his establishment in Canada is unreasonably discounted when the Officer credits that establishment to the due process he was afforded in the refugee determination system. The Applicant points out that he, not the refugee system, took the initiative to find work and enroll in school. He also says that his knowledge of his immigration status while he took steps to establish himself is an irrelevant consideration when assessing his level of establishment in Canada. See *Sebbe*, above, at para 24.

(2) Misconstruing and Ignoring the Totality of the Evidence

[19] The Applicant says that although the Officer gave the IRB’s findings “considerable weight,” the Officer seems to have departed from the IRB on the question of whether the Applicant had established his identity. This is significant because the IRB did not assess the risk the Applicant would face in Somalia because it did not accept that he had established his identity. The Applicant also notes that he provided the Officer with new evidence of his Somali identity, in the form of a letter from the Dejinta Beesha Somali Multi-Service Centre, which post-dates the IRB’s decision. And the Officer’s consideration of the hardship posed by Al Shabaab and the economic conditions in Somalia also implies that the Officer accepts the Applicant’s profile. In these circumstances, the Officer’s failure to consider all of the country conditions regarding Somalia is unreasonable.

[20] The Applicant submits that the Officer's assessment of the hardship he would face in Somalia unreasonably fails to consider that his hometown of Buale is under Al Shabaab control. The same UK Home Office Report that the Decision cites also quotes a 2017 report from Human Rights Watch which states that young men returning from Kenyan refugee camps to Al Shabaab controlled areas, including Buale, "have faced pressure to join Al-Shabab" (at para 7.1.2). The UK Home Office Report also says that Al Shabaab imposes severe sanctions on civilians in areas it controls for what it considers "un-Islamic conduct" (at para 6.9.1) and that travel between Al Shabaab and government controlled areas can result in suspicion from both sides (at para 8.1.2). A September 5, 2015 news article describing Al Shabaab's execution of four people in Buale also provided evidence of Al Shabaab's control there. See Mohamed Omar Hussein, "Somalia: Alshabab Firing Squad Kills 4 in Buale Town," *Radio Dalsan* (5 September 2015). Other country condition evidence reports that populations in Al Shabaab controlled areas face abuses such as arbitrary justice and restrictions on basic rights. See United Kingdom Foreign & Commonwealth Office, Corporate Report, "Somalia: Country of Concern," (21 January 2015).

[21] The Applicant says the Decision ignores his hometown's location in an Al Shabaab controlled area and that this directly contradicts the Officer's finding that he would not draw attention from Al Shabaab. In *Aboubacar v Canada (Citizenship and Immigration)*, 2014 FC 714 at para 11, an H&C determination was held to be unreasonable because there was "no rationale [sic] link between the evidence and the conclusion that the applicant would not be personally affected." Failure to consider material evidence that contradicts the Officer's findings is also unreasonable. See *Cepeda-Gutierrez v Canada (Minister of Citizenship & Immigration)* (1998),

157 FTR 35 at para 17 (TD); *Nwaeme v Canada (Citizenship and Immigration)*, 2017 FC 705 at paras 55-56.

[22] The Applicant also submits that in *Kanthisamy*, the Supreme Court of Canada clarified that H&C applicants only need show that they are likely to be affected by adverse country conditions. See *Kanthisamy*, above, at para 56. Therefore, it was not necessary for the Applicant to show that he had previously been targeted by Al Shabaab.

[23] The Applicant also says that the Officer ignores his lack of family in Somalia. The UK Home Office Report indicates that returnees from abroad will face additional scrutiny in Al Shabaab controlled areas if they do not have family members to vouch for them. See UK Home Office Report at para 6.9.1.

[24] The Applicant submits that all of the above mentioned country condition evidence is in stark contrast to the Officer's finding that he would not face sufficient hardship to warrant H&C relief and renders the Decision unreasonable.

B. *Respondent*

(1) Establishment

[25] The Respondent submits that the Officer's consideration of the facts relating to the Applicant's establishment is reasonable. In response to the Applicant's argument that the Officer fails to state what level of establishment would be sufficient, the Respondent submits that the

adequacy of reasons, on its own, is an insufficient basis for quashing a decision. See *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 14. Furthermore, the onus is not on the Officer to demonstrate what level of establishment would have warranted an exemption from the Act. Rather, the onus is on the Applicant to show establishment sufficient to warrant granting his H&C application. See *Regalado*, above, at paras 7-8.

(2) Country Conditions

[26] The Respondent says that the Applicant's allegations about the country conditions in Somalia are similar to those that were dismissed by the IRB and that no evidence was submitted in his H&C application to displace the IRB's findings. Thus, it was reasonable for the Officer to give deference to the IRB's findings, even though the Officer recognized that he is not bound by them. The Respondent submits that the Applicant's restatement of his allegations implies that he is simply inviting the Court to reweigh the evidence. This Court has regularly stated that its role is not to reweigh evidence. See e.g. *Kaur v Canada (Citizenship and Immigration)*, 2017 FC 782 at para 20; *Abdullah v Canada (Citizenship and Immigration)*, 2017 FC 1059 at para 23.

[27] The Respondent also says that there was no evidence that the Applicant would be forced to return to Buale or any other Al Shabaab controlled area. The Respondent accepts that the Officer did not question the Applicant's nationality or identity, but significant weight was still given to the IRB's finding that the Applicant's account of being kidnapped in Buale was not credible. No independent evidence corroborates that the Applicant is actually from Buale or would be forced to live in an Al Shabaab controlled area. It was therefore unnecessary for the

Officer to consider whether the Applicant would be targeted by Al Shabaab due to returning to an Al Shabaab controlled area and this risk was not raised by the Applicant in his H&C submissions. The Applicant bears the onus in his H&C application and it is not the Officer's responsibility to consider such a risk in the absence of evidence or allegations. See *Zlotosz v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 724 at para 31 and *Semana v Canada (Citizenship and Immigration)*, 2016 FC 1082 at para 16.

[28] The Respondent notes that the Applicant has not challenged the Officer's finding that the economic situation in Somalia is insufficient to justify H&C relief.

VIII. ANALYSIS

[29] The Applicant has raised a number of issues for review which I will address in turn.

A. *Establishment*

(1) Adequacy

[30] The Applicant says that the Officer's establishment analysis was unreasonable in that the reasons were not informative and the Officer did not provide an indication as to what would be considered an adequate level of establishment.

[31] The Officer clearly considered all of the factors put forward by the Applicant to support his establishment but concluded that "given the amount of time the applicant has spent in

Canada, his establishment into Canadian Society is not beyond what would normally be expected.” As Justice Diner pointed out in *Regalado*, above:

[7] The Applicant argues that it was unreasonable for the Officer not to explain what “level of establishment he requires to warrant the exercise of the discretion provided under section 25 of IRPA,” because the Officer noted that her degree of establishment is what “one would expect to accomplish in her circumstances.”

[8] This argument is misguided; the Officer cannot be expected to arbitrarily set the degree of establishment required under section 25, as that analysis will necessarily vary depending on the facts of each case. Likewise, it is not the role of an officer to speculate as to what additional facts or circumstances would have triggered a section 25 exception. Rather, it is the Applicant’s role to demonstrate exceptional circumstances, including establishment, rather than simply expected (*Baquero Rincon v Canada (Minister of Citizenship and Immigration)*, 2014 FC 194 at para 1).

[32] H&C relief under s 25(1) of the Act is exceptional relief, and the Officer simply concluded that there was nothing exceptional about the Applicant’s establishment that would justify the granting of such relief. Given the evidence that the Applicant advanced on this issue, it is difficult to see how the Officer could have reached any other conclusion. The Officer points out that the Applicant had received due process through the refugee determination and has received work permits. The Officer does not, however, discount the establishment evidence for these reasons; the Officer simply points out that, in availing himself of the benefits under the refugee process, the Applicant has not achieved a level of establishment that would support the exceptional relief he is seeking. In coming to this conclusion, the Officer clearly identifies and explains the evidence of establishment he has considered before coming to this conclusion. I see no reviewable error on this issue.

(2) Disruption of Establishment

[33] The Applicant says that the Officer failed to examine the disruption of his establishment that would result if he is required to leave Canada. However, the Officer clearly identifies and takes into account this aspect of disruption: “There will inevitably be some hardship associated with being required to leave Canada.” The Officer then considers this hardship together with the “adverse country conditions cited by the [A]pplicant” in Somalia and concludes that “I am not satisfied that having to depart Canada in order to apply for permanent residence from abroad would result in hardship for the [A]pplicant that is sufficient to warrant relief on humanitarian and compassionate grounds.”

[34] As regards the hardship arising from the disruption of the Applicant’s life in Canada, I see no reviewable error.

B. *Hardship in Somalia*

(1) Targeting by Al Shabaab

[35] On this aspect of hardship, the Applicant raises the following points in written submissions that he modified somewhat at the oral hearing of this judicial review application:

43. The Applicant submits that the Officer’s assessment of hardship he would face in Somalia was unreasonable and failed to account for the fact that the Applicant’s hometown of Buale, Somalia is under Al-Shabaab control, a fact that directly contradicted the Officer’s finding that the Applicant would not draw the adverse attention of Al-Shabaab.

44. Evidence that the Applicant’s hometown of Buale is under Al-Shabaab control, a fact not considered in the Officer’s reasons,

was cited in the July 2017 U.K. Home Office report that was before the Officer. Specifically, that report states:

Human Rights Watch's World Report 2017 — Somalia, published 12 January 2017 and covering events in 2016, stated **“Some young men and boys who returned from Kenya’s refugee camps to Al-Shabab-controlled areas, including Buale and Sakoow, have faced pressure to join Al- Shabab.”**

...

45. A September 5, 2015 news article that was before the H&C Officer also provided evidence of Al-Shabaab's control over Buale. That article states that four individuals were killed by Al-Shabaab's firing squad in the town of Buale.

46. Other country condition documentation that was before the Officer stated that populations under Al-Shabaab control suffered serious abuses, including arbitrary justice, and harsh restrictions on basic right[s].

47. The July 2017 U.K. Home Office report that was before the Officer also states that, “[t]raveling between AMISOM/SNA and al-Shabaab areas entails the risk of falling under suspicion from both sides of being affiliated with the enemy. Such suspicion can lead to punishment, kidnapping and interrogation, or killing.”

48. The Officers H&C reasons neither acknowledge that the Applicant's hometown is in an Al-Shabaab controlled area, nor do they take into consideration that adverse country conditions that would likely affect the Applicant in Somalia.

49. The Applicant submits that the Officer's conclusion respecting hardship that the Applicant would face is unsustainable in light of the country condition evidence that was before it. The Officer's reasons lack justification, transparency and intelligibility.

[Footnotes omitted; emphasis in original.]

[36] First of all, in his H&C submissions the Applicant did not allege that he would return to Buale. Indeed, the evidence is clear that he has no family there.

[37] In his H&C submissions, the Applicant alleged that he could not go back to anywhere in Somalia:

I CANNOT GO BACK TO MY COUNTRY BECAUSE I FEAR ALSHAAB. I DONT HAVE ANY FAMILY MEMBER IN SOMALIA ALL MY FAMILY MEMBERS FLED FROM SOMALIA. DUE TO THE DANGER THEY FACED IN SOMALIA. IF I GO TO SOMALIA ALSHAAB WILL CONSIDER ME AS SPY FROM WEST AND I WILL RISK MY LIFE. IF I FORCED TO GO BACK TO SOMALIA I WILL FACE AN UNDESERVABLE HARDSHIP LIVING IN A COUNTY IN WHICH THERE IS NO HUMAN RIGHT, NO SAFETY, NO FAMILY, NO EMPLOYMENT OPPORTUNITY.

...

MY FAMILY AND I REALIZED THAT OUR LIVES WERE IN DANGER. MY FAMILY HAD TO FLEE TO KENYA AND I CAME TO CANADA TO SEEK PROTECTION. I HAVE NO FAMILIES IN CANADA. HOWEVER I MADE MANY FRIENDS AND CREATED STONG RELATIONSHIP WITHIN SOMALIAN COMMUNITY AND CANADIAN SOCIETY. I WILL BE AT RISK IF I WERE TO GO BACK TO LIVE IN SOMALIA AND I DO NOT HAVE ANY FRIENDS OR RELATIVE TO PROTECT ME.

[Errors in original.]

[38] The IRB had rejected the Applicant's allegations of past persecution and found they were fabricated and that the Applicant lacked credibility. Before the H&C Officer, however, the Applicant submitted a UK Home Office Report, which he says supports that he is at risk from Al Shabaab throughout the whole of Somalia. That report, however, makes the following points:

6.2.1 The DIS 2017 report stated, 'Al-Shabaab is regarded by an independent organisation to mainly attack high profile targets and according to a UN source, civilians, who do not belong to any of the [...] mentioned categories [paras 6.2.4 - 6.2.15], are not considered targets.'

6.2.2 The UN Security Council October 2016 update stated 'Complex attacks against "soft" civilian targets, such as hotels and

restaurants, increased during the mandate, especially in Mogadishu, Baidoa and North Galkayo, resulting in a significant number of casualties.’

6.2.3 Sources within the DIS 2017 report added:

‘As the capital Mogadishu is characterised by the presence of many high value targets, most assassinations and attacks (IED’s, shootings, and car bombs) in Somalia, take place in Mogadishu. For the civilian population the highest risk is being in the wrong place at the wrong time and become collateral damage. Mogadishu has been the scene of several attacks with a number of civilian casualties but terror attacks against e.g. market places with no presence of high value targets are deemed unusual. A UN source added that civilians perceived to be associated with the government and the international community are seen by al-Shabaab as legitimate targets.’

[Footnotes omitted.]

[39] The Officer specifically refers to this report and concludes that “In light of the foregoing and the evidence adduced by the [A]pplicant, I do not find that the [A]pplicant’s activities and profile would lead him to come to the adverse attention of al-Shabaab insurgents as a potential target.” Given the contents of the report, I cannot say this finding was unreasonable.

(2) No Family Members in Somalia

[40] The Applicant raises a further issue with regard to the threat from Al Shabaab:

53. Lastly, the Officer erred by failing to take into consideration, the fact that the Applicant has no remaining family members in Somalia. The absence of the Applicant’s family members in Somalia is particularly important as the country condition report that the Officer relied on specifically states the following:

‘According to an international organization the fact that a person has been abroad, including in the West, is not in itself important when returning to an al-Shabaab area. **What is important is his/her clan, and the returnee will need relatives who are not in bad standing with al-Shabaab and who can vouch for them. If returnees are related to clans or individuals that are well regarded in al-Shabaab, they are likely to be safe. If not, he/she might face at least some initial scrutiny.**’

[Emphasis in original; footnotes omitted.]

[41] The failure to mention this factor in relation to Al Shabaab is not material as the Officer reasonably found that the Applicant did not have the profile of someone at risk and the Applicant did not allege that he must return to an Al Shabaab controlled area.

(3) Economic Conditions

[42] The Officer addresses this issue as follows:

Over two decades of indiscriminate warfare and the absence of a functioning central government [in] Somalia has resulted in much physical, economic and social devastation throughout all regions of the country. Against this backdrop, the applicant submits that his prospects for employment are poor in Somalia and finding work will be difficult. I realize that the prevailing economic climate in Somalia is poor relative to Canada. Although regrettable, I find that the process of re-integration and re-establishment when returning to a country whose economic conditions are less prosperous than those found in Canada to be an ordinary consequence of removal. While potentially not easy, tasks such as finding employment in the existing domestic labour market are incidental to this process.

There will inevitably be some hardship associated with being required to leave Canada. However, taking into account the adverse country conditions cited by the applicant, I am not satisfied that having to depart Canada in order to apply for permanent residence from abroad would result in hardship for the

applicant that is sufficient to warrant relief on humanitarian and compassionate grounds.

[43] These conclusions are based upon “the adverse country conditions cited by the Applicant...” So the Officer is not just saying that Somalia is poorer than Canada and return to a poorer country is “an ordinary consequence of removal...” The officer looks at the “adverse country conditions cited by the Applicant” and determines that those conditions do not give rise to sufficient hardship to warrant an H&C exemption. In other words, just because Somalia has generally suffered “much physical, economic and social devastation throughout all regions of the country,” the Applicant has not shown that he personally will suffer sufficient hardship to justify an exemption. It is possible to disagree with this conclusion, but I don’t think it is possible to say that it lacks transparency or justification, or that it falls outside the *Dunsmuir* range.

IX. Certification

[44] Counsel agree there is no question for certification and the Court concurs.

JUDGMENT IN IMM-4152-17

THIS COURT'S JUDGMENT is that

1. The application is dismissed.
2. There is no question for certification.

“James Russell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4152-17

STYLE OF CAUSE: ADEN ABDI HADUN v MINISTER OF CITIZENSHIP
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