

Federal Court



Cour fédérale

Date: 20210421

Docket: IMM-7072-19

Citation: 2021 FC 263

Ottawa, Ontario, April 21, 2021

PRESENT: Madam Justice Simpson

BETWEEN:

ABDIRIZAQ MAHAMUD YUSUF

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

**(Delivered orally from the Bench by videoconference
at Ottawa, Ontario on January 11, 2021)**

I. Background

[1] This application is for judicial review of a decision of the Refugee Appeal Division [the RAD], of the Immigration and Refugee Board of Canada [the Board], dated October 30, 2019.

The RAD Member dismissed the appeal, upholding the finding of the Refugee Protection

Division [the RPD] of the Board that the Applicant had not provided sufficient reliable evidence to establish his identity.

[2] The Applicant claims to be a 24-year-old citizen of Somalia who says he is a member of the minority Jaagi clan and a follower of the Sufi religion.

[3] The following summary of events is taken in large part from the RPD's decision.

[4] The Applicant alleges that he fled Somalia with his father and three siblings in May of 2010, shortly after his mother was killed by members of the majority Abgal clan.

[5] The Applicant alleges that after leaving Somalia, the family went to South Africa where they made an application as refugees and were granted temporary status. The Applicant alleges that his father opened a store in South Africa.

[6] The Applicant further alleges that on July 16, 2014, his brother, Ali and his sister, Taman, were killed at the store during a robbery. After this incident, the Applicant's father decided that they would leave South Africa. The Applicant's father and his remaining brother Omar went to Kenya. However, the Applicant did not accompany them. Instead arrangements were made for him to go to the USA with the assistance of a smuggler.

[7] The Applicant arrived in the USA in December of 2014. He made an asylum claim there which was eventually refused. He learned from his brother Omar that his father had decided to

return to Somalia. While there he was killed by members of the Abgal clan. The Applicant also learned that the US government was beginning to deport failed asylum seekers, so he decided to come to Canada to seek protection. The Applicant entered Canada in October 2016 and made a refugee claim.

[8] The Applicant fears that if he returns to Somalia he will be killed by members of the majority clans. He also fears being targeted by Al Shabaab because he has been out of Somalia and has lived in Western countries.

II. **Discussion**

[9] There were numerous issues that caused the RPD to doubt the Applicant's credibility and his identity as a citizen of Somalia.

[10] However, without considering all the issues, it is my view that the RAD Member reasonably concluded that the evidence described below was unreliable. Further, these conclusions were sufficient to justify the RAD Member's dismissal of the appeal.

[11] The Applicant's most important identity witness was a gentleman with the initials YGM. He was identified as a close family friend. However, when asked which members of the Applicant's family were alive at the time of the RPD hearing, he named the Applicant's father and his brother Ali. Unfortunately, the Applicant had testified that they were both dead. The witness initially explained this error by saying that that he was tired but he made no mention of any difficulty with medications. Thereafter, further evidence was presented in the form of

Information Sheets for three drugs, All the Information Sheets were dated after the RPD hearing. The Information Sheets were tendered to explain YGM's incorrect evidence. According to the description on one of the Sheets, the drug was said to have memory loss as a potential side effect.

[12] The RAD Member concluded that since the Information Sheets were dated after the RPD hearing, there was no evidence to show that the medications were being taken at the time of the hearing. The RAD Member therefore agreed with the RPD that the side effects of the medication were not established as an explanation for YGM's erroneous evidence.

[13] After the RPD hearing but before its decision was released, the Applicant submitted an Affidavit sworn by a man described as MAT [the MAT Applicant]. He stated that he knew the Applicant's family and saw them regularly in South Africa between 2010 and 2014 in the course of his work as a truck driver. However, in his own refugee hearing, MAT had testified that he was unemployed from 2010 to 2014. Further, at his own refugee hearing, he did not testify that he had ever been employed as a truck driver.

[14] Given these circumstances and in view of the Applicant's failure to call MAT as a witness before the RPD, the RAD Member concluded that the MAT Affidavit had no probative value and lacked credibility due to its description of MAT's employment as a truck driver. In my view, this was a reasonable determination.

[15] Before concluding, I should note that the RPD assigned no weight to an Affidavit sworn by the Applicant's brother Omar because he was not made available to testify at the hearing. In

my view, given the problems with the evidence of YGM and MAT described above, this conclusion was also reasonable.

III. **Conclusion**

[16] The application for judicial review will be dismissed.

IV. **Certification**

[17] No question was posed for certification for appeal.

JUDGMENT IN IMM-7072-19

THIS COURT'S JUDGMENT is that the application for judicial review is hereby dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7072-19

STYLE OF CAUSE: ABDIRIZAQ MAHAMUD YUSUF v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEO CONFERENCE BETWEEN
OTTAWA, ONTARIO (COURT) AND TORONTO,
ONTARIO (PARTIES)

DATE OF HEARING: JANUARY 11, 2021

JUDGMENT AND REASONS: SIMPSON J.

DATED: APRIL 21, 2021

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