

Federal Court



Cour fédérale

Date: 20250716

Docket: IMM-14062-24

Citation: 2025 FC 1267

Toronto, Ontario, July 16, 2025

PRESENT: Madam Justice Go

BETWEEN:

ISMAIL ABUKAR ABDIKADIR

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Mr. Ismail Abukar Abdikadir, is a citizen of Somalia currently residing in Uganda. The Applicant was granted refugee status by the government of Uganda.

[2] The Applicant applied to resettle in Canada through the Convention Refugee Abroad Class or the Country of Asylum Class, or as a member of the Humanitarian-Protected Persons

Abroad designated class. The Applicant, who comes from a minority clan, alleges fear of persecution from the government of Somalia as well as from Al-Shabaab.

[3] In a letter dated June 5, 2024, an Officer at the High Commission of Canada in Tanzania [Officer] rejected the application [Decision]. The Officer did not find the Applicant credible and was not satisfied that the Applicant has a well-founded fear of persecution or that the Applicant “[has] been and [continues] to be personally and seriously affected by civil war, armed conflict, or human rights abuses.” The Officer was not satisfied that the Applicant has been truthful and forthcoming with the information he provided as per the requirement under subsection 16(1) of the *Immigration and Refugee Protection Act*, SC 2001, c.27 [IRPA] and was therefore not satisfied that the Applicant is not inadmissible under subsection 11(1) of IRPA.

[4] The Applicant argues that he was denied procedural fairness. He also challenges the Officer’s credibility findings as being unreasonable. For the reasons set out below, I find the Decision unreasonable and I grant the application.

II. Analysis

[5] In the Decision, the Officer noted that they did not find it credible that the Applicant was the subject of Al-Shabaab threats while living in Somalia “given the details/inconsistencies provided and open-source information on this subject.”

[6] The Officer did not provide any details with regard to their findings of inconsistencies or the open-source information in the Decision. The Officer provided some reasons in the Global Case Management System [GCMS] notes.

[7] The GCMS notes include a summary of the interview the Officer conducted with the Applicant. According to the GCMS notes, the Applicant told the Officer that he helped his father who worked as a bread maker in their home. The Applicant's house faced the main road. One day Al-Shabaab tried to plant a device on the road across from their home. The government found out about the plan and caught the people involved. The Applicant then received a call from someone accusing the Applicant of informing the government about the Al-Shabaab's plan. The Applicant denied the accusation and reported the call to the police, who told the Applicant to join the police to protect himself, which the Applicant refused. The Applicant further alleged that his mother later told him that Al-Shabaab came to their home to look for the Applicant, calling him a spy and an infidel, so the Applicant fled.

[8] The GCMS notes indicate that the Officer asked several follow-up questions before stating they had concerns with the information provided in the application and the inconsistencies provided at the interview. The Officer found that the reasons the Applicant gave at the interview were "completely different" from that outlined in the Applicant's application to resettle. The Officer also found that it was "difficult to comprehend" that Al-Shabaab haven't approached the Applicant's family in regard to the Applicant's whereabouts. The Officer then concluded that the Applicant "provided inconsistent, contradictory and implausible testimony" relating to material aspects of the claim.

[9] Applying the reasonableness standard per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, I find the Decision unreasonable for two reasons.

[10] First, as the Applicant submits, and I agree, the Officer did not go into any analysis of the Applicant's interview and just mentioned in one sentence that the information that the Applicant gave at the interview is different from that in his application forms.

[11] In his narrative for the resettlement application, the Applicant provided limited details about his claim. In a brief and very broadly-worded paragraph, the Applicant declared in his application form:

Since I was from a minor clan, I was a victim for the government at that time and the Alshabab [*sic*] group. The reason being when you are a man they want to use you to fight with the opposite side and if you say no there is a very high punishment such as being held hostage or being killed. So I feared for my life and didn't want this to happen to me, so I ran away.

[12] The Applicant then went on to describe the journey he took to Uganda before stating that he is unable to return to Somalia because of his minority clan status and because he is still in danger and at risk of getting killed if he were to return.

[13] As noted above, the Applicant disclosed at the interview his interaction with both the Al-Shabaab and the police, with the latter telling the Applicant to protect himself by joining the police and getting a gun that way, which the Applicant refused. The Officer did not explain why this was inconsistent with the Applicant's narrative of fear from both the government and the Al-Shabaab and that being a man, he would be used to fight the opposite side.

[14] Further, I note that after being questioned by the Officer about the alleged inconsistencies, the Applicant responded that the people who filled out the form may have put in the wrong information. The Applicant reiterated that Al-Shabaab threatened him, he had been truthful and did not fill out the form. At that point, the Officer noted that the Applicant provided “inconsistent, contradictory and implausible testimony relating to material aspects of the claim.” While I agree with the Respondent that the Officer need not have accepted the Applicant’s explanation about the form, the Officer was obligated to explain what they found to be “implausible” about the Applicant’s testimony, and what aspect of the Applicant’s testimony the Officer determined to be inconsistent or contradictory with the Applicant’s very broadly-worded narrative.

[15] Second, I agree with the Applicant that he did indeed mention in his narrative that he is afraid of the government and Al-Shabaab because he is a man, and because he would be used to fight the opposite side. The Applicant cites *Pastrana Viafara v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1526 [*Viafara*] at para 6, which in turn quoted from *Canada (Attorney General) v Ward*, 1993 CanLII 105 (SCC), [1993] 2 SCR 689 [*Ward*] at pages 745 and 746. The Supreme Court of Canada in *Ward* confirmed there is an obligation on the decision-maker to consider “all of the grounds for making a claim to refugee status, even if the grounds are not raised during a hearing by a claimant:” *Viafara* at 6.

[16] In this case, not only did the Officer fail to explain what “inconsistent, contradictory and implausible testimony” that they were referring to, other than pointing to the Applicant’s

narrative, the Officer also failed to consider the Applicant's allegations contained in the very narrative that the Officer cited as the basis of their negative credibility findings.

[17] I reject the Respondent's submission that the Applicant abandoned what he has claimed in the form by stating that the people who filled out the form had put in the wrong information. As I have noted above, and as the GCMS notes indicate, while the Applicant suggested that those who completed the form "may have" put in the wrong information, the Applicant never retreated from his claim. Further, as the Applicant points out, when asked at the interview why he left Somalia, the Applicant's first response was that he is from a minority tribe that speaks a different language.

[18] At the end of the day, even if the Officer had reasons to question the credibility of the Applicant's allegations concerning Al-Shabaab, the Officer's failure to consider the Applicant's minority clan status as basis of his claim constitutes a reviewable error, particularly since this ground was raised specifically at the interview as well as in the Applicant's form: *Vilmond v Canada (Citizenship and Immigration)*, 2008 FC 926 at paras 18-20.

[19] The above noted errors are sufficient reasons to set aside the Decision. I need not consider the remainder of the Applicant's submissions.

III. Conclusion

[20] The application for judicial review is allowed and the matter is returned for redetermination by a different officer.

[21] There is no question to certify.

JUDGMENT in IMM-14062-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The matter is returned for redetermination by a different officer.
3. There are no questions to certify.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14062-24

STYLE OF CAUSE: ISMAIL ABUKAR ABDIKADIR v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

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JUDGMENT AND REASONS: GO J.

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APPEARANCES:

Anna Davtyan

FOR THE APPLICANT

Leanne Briscoe

FOR THE RESPONDENT

SOLICITORS OF RECORD:

EME Professional Law Corp
Thornhill, Ontario

FOR THE APPLICANT

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT