

Federal Court



Cour fédérale

Date: 20210706

Docket: IMM-4611-19

Citation: 2021 FC 705

Ottawa, Ontario, July 6, 2021

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MAHDI EGUEH ABDIRAHMAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of a negative decision by an immigration agent dated June 26, 2019, rejecting an application for permanent residence under humanitarian and compassionate grounds (H&C).

[2] The Applicant is a citizen of Djibouti and arrived in Canada in or about April 2017 wherein he submitted a refugee claim. The claim was later rejected in 2017 for lack of

credibility, refused on appeal the following year and application for leave and judicial review dismissed in May 2018. The Applicant thereupon submitted an H&C application.

[3] On June 26, 2019, the application was refused because of insufficient factors justifying dispensing with the requirements for permanent residency under the *Immigration and Refugee Protection Act*, SC 2001, c 27 and its regulations for humanitarian grounds.

[4] This judicial review relates to the reasonability of the agent's decision. As set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85, a "reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation of the facts and law that constrain the decision maker".

[5] The Applicant submits that the agent incorrectly assessed his application through a hardship lens, as well as erred in the appreciation of his community involvement and failed to consider his advocacy from Canada for human rights in Djibouti and the hardship resulting from this activism upon return in the country.

[6] In the present case, the agent acknowledged the Applicant's laudable establishment and ties in Canada as evidenced notably by his efforts for betterment, on finding work that later became permanent and his engagement in the Djibouti and Somalian community with two organisations. The Applicant had also indicated that he provided financial assistance to his family, though this was not substantiated. The agent nonetheless found that, though overlooked or not realized, the Applicant had stronger ties with Djibouti where he lived and has relations,

such that his establishment and ties with Canada did not justify an exemption under the immigration legislative regime. Similarly, dispensing with ordinary procedure was not warranted by the alleged financial and political hardship conditions upon return, which were uncorroborated.

[7] With respect, and in realizing the agent's broad discretion in the circumstance, the reasons the agent provided lack a rational chain of analysis. The only grounding in the record pertains to the Applicant's establishment and ties in Canada, this being overwhelmingly positive. The agent goes so far as to commend the Applicant on more than one occasion in the reasons.

[8] Indeed, the record attests for example, with specificity and supplemented by evidence, to the Applicant's exceptional and appreciated community involvement, being integral to a number of initiatives and providing a support system, particularly for youth and newcomers. The agent's conclusions are seemingly in conflict with this significant body of evidence, as well as being contradicted by its own summary appreciation of the evidence in this regard, nevertheless given precedence to suggested natural ties with Djibouti.

[9] As the degree of establishment is indeed of significance, the Court is satisfied that the present circumstances warrant the matter be remitted for consideration anew (*Raudales v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 385 at para 19; *Jamrich v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 804 at para 22; see *El Thaher v Canada (Citizenship and Immigration)*, 2012 FC 1439 at paras 13-14, 27-29, 71-72). For the foregoing reasons, the application for judicial review is granted.

JUDGMENT in IMM-4611-19

THIS COURT'S JUDGMENT is that the judicial review be granted and that the matter be returned to a different immigration agent for consideration anew. There is no serious question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4611-19

STYLE OF CAUSE: MAHDI EGUEH ABDIRAHMAN v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: JUNE 22, 2021

JUDGMENT AND REASONS: SHORE J.

DATED: JULY 6, 2021

APPEARANCES:

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