

Federal Court



Cour fédérale

**Date: 20250925**

**Docket: IMM-15680-24**

**Citation: 2025 FC 1574**

**Ottawa, Ontario, September 25, 2025**

**PRESENT: The Honourable Mr. Justice Duchesne**

**BETWEEN:**

**UMI ATHMAN SAID  
(A.K.A. UMUKULTHUM JAFFAR MBARAK)**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a decision made on August 20, 2024, by the Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada. The RPD granted the Respondent's application, pursuant to section 109 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [IRPA] and Rule 64 of the *Refugee Protection Division Rules*, SOR/2012-256, to vacate the Convention refugee status conferred upon the Applicant on May 9, 2018, through her prior refugee claim proceeding [Decision].

[2] The RPD found based on the evidence led before it that the Applicant had used the alternative Somali identity “Umi Athman Said” for her refugee protection claim in Canada. In doing so, she misrepresented or withheld material facts relevant to her refugee claim regarding her true identity, name, alias, date of birth, nationality, initial date of entry into Canada, places of residence, and personal history.

[3] The Applicant argues that the RPD’s decision is unreasonable because it is based on a collection of coincidences that cannot reasonably be applied to the Applicant. I must disagree. The evidence adduced by the Respondent before the RPD was reasonably considered and was found sufficient to establish that the Applicant misrepresented and withheld information from Canadian authorities and obtained refugee status in Canada as a result.

[4] The Applicant’s application is dismissed for the reasons that follow.

#### I. **Background**

[5] The Respondent sought the vacation of the Applicant’s refugee status on the basis that the Applicant directly or indirectly misrepresented or withheld material facts relating to her identity before the RPD panel of first instance that granted her refugee claim. In doing so, the Respondent argued, she precluded the RPD panel considering her refugee claim from engaging in a comprehensive analysis of her identity and credibility in connection with the basis of her claim. The Respondent also argued before the RPD that, given the gravity of the Applicant’s misrepresentation of her identity and country of reference, there is insufficient untainted evidence to justify the Applicant’s continued need for refugee protection against Somalia.

[6] The RPD found that the Applicant, Umukulthum Jaffar Mbarak, a Kenyan national born on January 15, 1991, in Lamu, Kenya, presented herself and obtained refugee protection against Somalia under the alias “Umi Athman Said”, alleged to be born on December 12, 1991, in Jula, Somalia.

[7] The RPD considered the evidence led before it by both parties and found, among others, that:

- a) The Applicant, identifying herself as Umukulthum Jaffar Mbarak, submitted a Canadian study permit application in Nairobi, Kenya, on April 16, 2012, in which she stated that she is a Kenyan who was born in Lamu, Kenya. Her application also included representations that her aunt, residing at 103-1 Hickory Tree Road in Toronto, Ontario, provided the Applicant with an invitation letter for her to study in Toronto. The Applicant was approved for a student visa on July 3, 2012, and was issued a study permit to enrol in a four-year business management program at the Humber Institute of Technology and Advanced Learning, in Toronto. She entered Canada via the Toronto Pearson International Airport on September 15, 2012, on a Kenyan passport issued for Umukulthum Jaffar Mbarak. Her courses were to begin on September 4, 2012. Umukulthum Jaffar Mbarak failed to attend the Humber Institute at all. There is no record that Umukulthum Jaffar Mbarak ever returned to Kenya.
- b) The Applicant used her Kenyan passport to successfully board aircrafts, pass through customs, security, and immigration during her journey from Nairobi, Kenya, to Toronto, Canada.

- c) The Applicant's citizenship is presumptively Kenyan. She did not rebut this presumption with any credible evidence.
- d) The Applicant did not provide any credible evidence that she is a national of Somalia and no other country, or evidence in support of her refugee claim made on December 7, 2012, as Umi Athman Said.
- e) The Applicant used 103-1 Hickory Tree Road as her mailing address in her refugee claim as Umi Athman Said, but testified that she had never resided there while in Canada as she lived with a friend in a condominium for a period of time. That friend instructed her to use the mailing address of her "friend" residing at 103-1 Hickory Tree Road, as well as the telephone number associated with that address. The "friend" did not provide any evidence before the RPD.
- f) The 103-1 Hickory Tree Road address used by Umi Athman Said in her refugee claim corresponds with the address of the person who provided the invitation letter to Umukulthum Jaffar Mbarak.
- g) In text messages exchanged between the Applicant and her husband, the Applicant admitted that she is Kenyan.
- h) The Applicant testified that she had no documents to corroborate her travel as Umi Athman Said to Toronto on October 26, 2012, her alleged place and date of entry into Canada. The Canada Border Services Agency has no evidence that verifies that Umi Athman Said entered Canada on October 26, 2012.
- i) The Somali birth certificate and national identity documents produced by the Applicant in connection with the Respondent's application before the RPD were issued on June 8, 2024. They were procured by the Applicant by going to a print shop in Scarborough,

Ontario, where she had her fingerprint taken and sent via email to a third person who in turn forwarded it to her mother who sent it directly to government officials in Mogadishu, Somalia. The origins of the Somali documents cannot be traced using invoices, email communications, affidavits or other similar evidence that could have helped to establish their reliability.

- j) The Applicant continued to mislead the Government of Canada, the Minister, and the RPD by providing documents and information that are not credible and trustworthy during the vacation hearing.
- k) The Applicant indicated that her mother paid an agent to smuggle her out of Kenya and that her husband was the primary financier of her trip out of Kenya, with some contribution by her mother.
- l) A comparison of a photograph of Umukulthum Jaffar Mbarak departing Mombasa, Kenya, on September 14, 2012, and a photograph taken of the person using the alias Umi Athman Said during her refugee intake at the Citizenship and Immigration Canada office in Etobicoke on November 16, 2012, reflects that the persons depicted in the photographs are, on a balance of probabilities, the same person despite having different names.

[8] The RPD concluded that the Applicant's withholding of the use of a Kenyan passport to apply for a Canadian study permit was relevant and a pertinent fact that the panel of first instance was denied due to the Applicant's decision to withhold pertinent information. The RPD held that the evidence provided by the Applicant to support her refugee claim before the panel of first instance failed to establish, on a balance of probabilities, her true nationality, which is Kenyan. The RPD further found that there is a causal link between the Applicant's withholding of a

material fact, her Kenyan nationality, and the decision that deemed her a Convention refugee from Somalia.

[9] The Applicant's status as a refugee from Somalia was therefore vacated and deemed rejected.

## II. **The Issue and the Standard of Review**

[10] The issue is whether the Decision is reasonable. The parties agree that the applicable standard of review is the reasonableness standard discussed in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. The Court agrees.

[11] Pursuant to *Vavilov*, a reasonableness review requires the reviewing court to assess the reasons given by the administrative decision-maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85). The onus is on the Applicant to demonstrate that "any shortcomings or flaws... are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

## III. **Analysis - The Decision Is Reasonable**

[12] The Applicant argues that the Decision is unreasonable and should be quashed because it is based on a collection of coincidences. The Applicant also submits that the RPD's finding that Umukulthum Jaffar Mbarak and Umi Athman Said appeared to be the same person based on its comparison of photographs is unreasonable because the RPD is not an expert in the forensic analysis of photographs. The Respondent disagrees with the Applicant and highlights that the Applicant has not established that the Decision is unreasonable despite her arguments.

[13] The Decision reflects the RPD's consideration of the body of evidence that the Respondent marshaled and led before it in connection with the issues to be determined in light of section 109 of the IRPA and the jurisprudence interpreting it. The RPD carefully considered each link in the Respondent's chain of evidence that showed the Applicant's misrepresentations and their effects, the Applicant's evidence in response, and weighed it all after determining whether any aspect of it was not credible. The RPD found that the Respondent met its burden on its application.

[14] The Applicant's argument that the RPD's determination is based on the congruence of coincidences must be rejected. The record before the RPD was replete with evidence of the Applicant's misrepresentations that she could not explain away. The "coincidences" established by the Respondent - the alias Umi being a shortform for Umukulthum; the Applicant's admission that she is Kenyan in text messages to her current husband; Umi's date of birth being the same year as that of Umukulthum; the fact that the same mailing address was used for the purposes of Umukulthum's study permit application and Umi's refugee claim - are not mere coincidences. These facts add to one another along with many others found in the evidence adduced and

highlight the scope of the Applicant's misrepresentations to Canadian government officials in order to obtain refugee protection.

[15] The Applicant's argument that the RPD cannot make a finding of fact on the appearance and identity of a person depicted in two or more photographs without resorting to a forensic analysis must be rejected also. This Court has held repeatedly that the RPD is empowered to make such a finding and is not required to resort to expert testimony before making such a finding (*Olaya Yauce v Canada (Citizenship and Immigration)*, 2018 FC 784 at para 9; *Liu v Canada (Citizenship and Immigration)*, 2012 FC 377 at paras 9-10; *Hernandez Santos v Canada (Citizenship and Immigration)*, 2007 FC 1119 at paras 21-22; *Kazadi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 292 at paras 11-12).

[16] The RPD panel took care in its study of the photographs and had the benefit of observing the Applicant as she sat before it during the four-hour hearing of the Respondent's vacation motion before concluding that the person in the photographs is the same despite the different names associated with each of the photographs. The RPD stated as follows in its Decision:

[17] The panel made a thorough observation of the Respondent's facial features during the virtual hearing which lasted for over four hours. The panel also undertook a careful and meticulous comparison of the photograph taken of the Respondent when she initiated her refugee claim in Canada on November 16, 2012, as a person of Somali nationality. The panel finds a comparison of the photographs reveals that, on a balance of probabilities, they are the same person. The photograph taken of Umukulthum Jaffar Mbarak departing Mombasa, Kenya on September 14, 2012, in the Traveller History Report, demonstrates for the panel that it resembles the Respondent, Umi Athman Said, who appeared before the panel during her vacation proceedings. Furthermore, the photographs clearly emphasize the physical features and similarities in the structure of the face, which are



visibly similar between all photographs. The shape of her eyes, her nose, the bridge of her nose, her jaw line, the shape of her lips, the size of her forehead and the shape of her chin are all identical. In *Yauce* the Federal Court held that the RPD is empowered to make a finding that an applicant is or is not the person appearing in the photograph of a document and it is not required to resort to expert testimony. The panel is cognizant of the care required in such an assessment. Accordingly, the panel finds, on a balance of probabilities, that Umi Athman Said, a.k.a. Umukulthum Jaffar Mbarak is the same person.

[17] Having observed the photographs that were before the RPD, the Court cannot find that the RPD panel made any error in its observations of the similarities between the faces depicted in the photographs or in its conclusion that that Umi Athman Said and Umukulthum Jaffar Mbarak are, on the balance of probabilities, the same person.

[18] The Court therefore finds that the Decision is rational, justified, and reasonable.

#### IV. **Conclusion**

[19] The Court concludes that the Applicant's oral arguments at the hearing and written submissions in her memorandum of argument fail to establish that the Decision is unreasonable. She has failed to meet her burden. Accordingly, her application for judicial review is dismissed.

[20] The parties have not suggested that a serious question of general importance is involved in this proceeding.

[21] The Applicant has consented to an order that amends the style of cause of this proceeding so that the correct Respondent, the Minister of Public Safety and Emergency Preparedness, is

named in this Judgment. The style of cause is therefore amended accordingly with immediate effect.

**JUDGMENT in IMM-15680-24**

**THIS COURT’S JUDGMENT is that:**

1. This application for judicial review is dismissed.
2. There is no question to be certified in this proceeding.
3. The Minister of Public Safety and Emergency Preparedness is substituted for the originally named Respondent, the Minister of Immigration and Citizenship, the Minister of Immigration and Citizenship ceases to be a party to this proceeding, and the style of cause is amended accordingly. The amendment is reflected in the style of cause used in this Judgment.

“Benoit M. Duchesne”

---

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-15680-24

**STYLE OF CAUSE:** UMI ATHMAN SAID (A.K.A. UMUKULTHUM  
JAFFAR MBARAK) v. THE MINISTER OF PUBLIC  
SAFETY AND EMERGENCY PREPAREDNESS

**PLACE OF HEARING:** ZOOM VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 18, 2025

**JUDGMENT AND REASONS:** DUCHESNE, J.

**DATED:** SEPTEMBER 25, 2025

**APPEARANCES:**

Ariel M. Hollander FOR THE APPLICANT

Charles J. Jubenville FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Lewis & Associates FOR THE APPLICANT  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario