

Federal Court



Cour fédérale

Date: 20251103

Docket: IMM-22465-24

Citation: 2025 FC 1765

Ottawa, Ontario, November 3, 2025

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

ABDIRASHID UGAS ARALE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is the judicial review of a decision of an immigration officer [Officer] refusing the application of Abdirashid Ugas Arale, the Applicant [Applicant] for a permanent resident visa as a member of the Convention refugee abroad class.

Background

[2] The Applicant is a citizen of Somalia. He currently resides in Uganda and holds a Republic of Uganda Refugee Identity Card. In February 2022, he applied for a permanent resident visa in Canada as a member of the Convention refugee abroad class. He was interviewed on October 10, 2024, at the International Organization for Migration office in Kampala, Uganda. By letter dated November 14, 2024, the Officer refused his application.

Decision Under Review

[3] The refusal letter set out the applicable provisions of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*] and the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRP Regulations*]. The letter stated that the Officer was not satisfied that the Applicant had been truthful or forthcoming in the information provided in support of his application. In that regard, the letter indicated that the Officer's concerns with credibility had been identified during the Applicant's interview and he had been afforded the opportunity to respond to those concerns. However, the Applicant's responses did not allay the concerns. The Officer concluded that, beyond the information with which there were credibility concerns, there was insufficient evidence to satisfy them that the Applicant was not inadmissible to Canada and that he met the requirements of the *IRPA* and the *IRP Regulations*. The Officer found that the Applicant was not a member of any of the prescribed classes.

[4] The global case management system [GCMS] notes form a part of the Officer's reasons. These include the interview notes of the Officer. The interview notes indicate that the Applicant

was assisted by an interpreter and was informed of his obligation to be truthful. The Officer noted that in his application, the Applicant was asked to describe the specific events which led to the Applicant fleeing his home country, Somalia. His response was very limited, stating that he fled due to political instability. However, during the interview the Applicant claimed to have been working at his uncle's shop on October 18, 2021, when members of Al Shabaab demanded that the uncle pay them a tax. When his uncle refused, he was shot and killed. The Applicant claimed he escaped through a back door and that he fled Somalia two days later because he feared being targeted by Al Shabaab. He feared returning to Somalia for the same reason.

[5] The Officer raised with the Applicant that, in his narrative, he claimed that he could not return to Somalia because of political instability but made no mention of the killing of his uncle. Further, that the Applicant had not indicated that he worked for his uncle, rather, that he was a student. When asked about this, the Applicant blamed the person who filled out the application. With respect to the Applicant's claim of fear upon return to Somalia, the Officer noted that Al Shabaab would not know where the Applicant lived. The Applicant indicated that his phone number had been listed in his uncle's shop. When the Officer put it to him that he could change his SIM card, the Applicant said they could find him anyway.

[6] The Officer also put it to the Applicant that his parents and one sibling still live in Mogadishu and that he had provided no evidence that Al Shabaab had visited his family home to threaten him or his parents in the nearly four years since the alleged murder of his uncle. The Applicant's response was that Al Shabaab is everywhere and that they are still pursuing him.

[7] The Officer found that, in the absence of additional evidence, the Applicant had not provided plausible or credible information at the interview. Given the inconsistencies in his evidence and considering open-source information, the Officer concluded that the Applicant had failed to demonstrate a well-founded fear of persecution and, therefore, did not fall within the definition of a Convention refugee. Further, the Officer was not satisfied that the Applicant met the definition of the country of asylum class due to his lack of credibility. Nor was the Officer satisfied that the Applicant continues to be seriously and personally affected by civil war, armed conflict or human rights abuses. This assessment was based on the Applicant's inability to credibly demonstrate why he had to leave Somalia and could not return there.

Relevant Legislative Provisions

Immigration and Refugee Protection Act, SC 2001, c 27

Application before entering Canada

11 (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Refugees

12(3) A foreign national, inside or outside Canada, may be selected as a person who under this Act is a Convention refugee or as a person in similar circumstances, taking into account Canada's humanitarian tradition with respect to the displaced and the persecuted.

Obligation — answer truthfully

16 (1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires.

Convention refugee

96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

Person in need of protection

97 (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

Person in need of protection

(2) A person in Canada who is a member of a class of persons prescribed by the regulations as being in need of protection is also a person in need of protection.

Claim for Refugee Protection

Claim

99 (1) A claim for refugee protection may be made in or outside Canada.

Claim outside Canada

(2) A claim for refugee protection made by a person outside Canada must be made by making an application for a visa as a Convention refugee or a person in similar circumstances, and is governed by Part 1.

Immigration and Refugee Protection Regulations, SOR/2002-227

PART 8

Refugee Classes

DIVISION 1

Convention Refugees Abroad, Humanitarian-protected Persons Abroad and Protected Temporary Residents

Interpretation

Definitions

138 The definitions in this section apply in this Division and in Division 2.

.....

urgent need of protection means, in respect of a member of the Convention refugee abroad or the country of asylum class, that their life, liberty or physical safety is under immediate threat and, if not protected, the person is likely to be

(a) killed;

(b) subjected to violence, torture, sexual assault or arbitrary imprisonment; or

(c) returned to their country of nationality or of their former habitual residence.

General requirements

139 (1) A permanent resident visa shall be issued to a foreign national in need of refugee protection, and their accompanying family members, if following an examination it is established that

(a) the foreign national is outside Canada;

.....

(e) the foreign national is a member of one of the classes prescribed by this Division;

.....

Convention refugees abroad class

144 The Convention refugees abroad class is prescribed as a class of persons who may be issued a permanent resident visa on the basis of the requirements of this Division.

Member of Convention refugees abroad class

145 A foreign national is a Convention refugee abroad and a member of the Convention refugees abroad class if the foreign national has been determined, outside Canada, by an officer to be a Convention refugee.

.....

Member of country of asylum class

147 A foreign national is a member of the country of asylum class if they have been determined by an officer to be in need of resettlement because

(a) they are outside all of their countries of nationality and habitual residence; and

(b) they have been, and continue to be, seriously and personally affected by civil war, armed conflict or massive violation of human rights in each of those countries.

Issues and Standard of Review

[8] The sole issue in this matter is whether the Officer's decision was reasonable.

[9] The parties submit, and I agree, that the applicable standard of review is reasonableness. Reasonableness review asks this court to: “develop an understanding of the decision maker’s reasoning process in order to determine whether the decision as a whole is reasonable. To make this determination, the reviewing court asks whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision” (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99).

Preliminary Issues

[10] I first note that the Applicant submits that the Officer erroneously found that he is neither a Convention refugee pursuant to section 96 of the *IRPA* or a person in need of protection under section 97 of the *IRPA*. However, section 97 of the *IRPA* applies only to persons in need of protection who are in Canada and whose removal to their country of nationality would subject them to a risk of life or a risk of cruel and unusual treatment. The Applicant is not in Canada and, therefore section 97 has no application in this case. Rather, the legislative provisions set out above and in the Officer's refusal letter are the relevant provision of the *IRPA* and the *IRP Regulations* in this matter.

[11] Second, the Applicant has filed an affidavit in support of his application for judicial review. As the Respondent points out, in his affidavit the Applicant includes a considerable amount of information that is not found in the record that was before the Officer nor is it reflected in the Officer's interview notes. One example of many, is that the Applicant claims that on October 10, 2021, he began to receive calls from unknown numbers while working at his uncle's shop. The callers identified themselves as Al Shabaab and demanded the overdue zakat money be paid for his uncle's mechanic shop. The Applicant told the caller that his uncle would not pay as he was elderly and should be respected. In response to this, the Al Shabaab militants declared that the Applicant was an informant for the government since his uncle sold auto parts to government employees. The affidavit also asserts that after his uncle's murder the Applicant received a call from an Al Shabaab militant threatening his life. However, nothing in the interview notes or the record before the Officer indicates that there was contact by Al Shabaab before the alleged shooting, that the Applicant was declared an informant or that he was threatened after the shooting. In addition to raising issues in his affidavit that he does not appear to have raised when being interviewed, the Applicant also makes many legal arguments in his affidavit.

[12] I agree with the Respondent that parts of the Applicant's affidavit attempt to introduce new explanations or evidence that were not provided to the Officer. The jurisprudence is very clear that, as a general rule, the evidentiary record before a court on judicial review is restricted to the evidentiary record that was before the administrative decision-maker. Evidence that was not before the decision-maker and that goes to the merits of the matter is, with certain limited exceptions, not admissible (see, for example *Association of Universities and Colleges of Canada*

v Canadian Copyright Licensing Agency (Access Copyright), 2012 FCA 22 at para 19 [*Assn of Universities and Colleges*]; *Bernard v Canada*, 2015 FCA 263; *Connolly v Canada*, 2014 FCA 294; *Singh v Canada (Citizenship and Immigration)*, 2025 FC 887 at para 11; *Rosianu v Western Logistics Inc*, 2021 FCA 241 at para 28; *Orobosa Edugie v Canada (Citizenship and Immigration)*, 2025 FC 1634 at para 25). The evidence that the Applicant now attempts to include in his affidavit speaks to the merits of the decision and does not fall within any of the limited exceptions.

[13] When appearing before me, counsel for the Applicant suggested that the content of the affidavit should be admissible because it falls within the three exceptions to the general rule outlined in *Assn of Universities and Colleges*. First, that it provides background information. This cannot succeed. As stated in *Assn of Universities and Colleges*, there are occasions where this Court will receive an affidavit that provides general background in circumstances where that information might assist it in understanding the issues relevant to the judicial review. However, the affidavit cannot go further and provide evidence relevant to the merits of the matter decided by the administrative decision-maker (*Assn of Universities and Colleges* at para 20). Here, much of the content of the Applicant's affidavit provides information that goes directly to the merits of the decision and is not in the record.

[14] Counsel for the Applicant also suggested that the second exception may also apply, being that the affidavit is necessary to bring to the attention of the Court procedural defects that cannot be found in the evidentiary record of the administrative decision-maker, so that the judicial review court can fulfil its role of reviewing for procedural unfairness (*Assn of Universities and*

Colleges at para 20). However, the Applicant has not raised any issues of procedural fairness in his submissions. Rather, he asserts that the decision was unreasonable.

[15] Finally, Applicant's counsel suggested that the affidavit is necessary to highlight the complete absence of evidence before the Officer when they made their decision, the third recognized exception (*Assn of Universities and Colleges* at para 20). Applicant's counsel did not elaborate on this, and the basis of this assertion is not apparent. In any event, the affidavit does not make any reference to an absence of evidence. It does not serve to address this exception to the general rule.

[16] In oral submissions, the Applicant's counsel also relied on subsection 12(1) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 which states that "[a]ffidavits filed in connection with an application for leave shall be confined to such evidence as the deponent could give if testifying as a witness before the Court." Counsel submits that the affidavit complies with this section, and it is therefore admissible. I do not agree. Subsection 12(1) serves to limit an individual's affidavit evidence to content that they could provide testimony on if they were a witness before the Court. It does not modify the general rule that the evidentiary record before a court on judicial review is restricted to what was before the administrative decision-maker.

[17] I also do not agree with Applicant's counsel that a formal motion to strike the affidavit was required and that the Respondent failed to bring one. It is open to the Court to afford little or no weight to challenged affidavit evidence that was not part of the record that was before the

decision-maker as part of the judicial review decision-making process (see, for example, *Nguyen v Canada (Citizenship and Immigration)*, 2024 FC 609 at para 13; *Akram v Canada (Citizenship and Immigration)*, 2020 FC 143 at para 16; *Ilesanmi v Canada (Minister of Citizenship and Immigration)*, 2017 FC 137 at para 24).

[18] It is also notable, as the Respondent points out, that some of the information contained in the affidavit conflicts with the record that was before the Officer. For example, in his affidavit the Applicant states that the individual who filled out the form for him owned a cyber computer shop in Kampala, so he thought that person was best able to help him fill out the forms. However, in his application the Applicant states that he received assistance with the forms from Abdullahi Aden, who the application identifies as his cousin living in Alberta and a member of the group of five persons sponsoring the Applicant.

[19] For all of these reasons, my decision will consider the record that was before the Officer and their reasons. The content of the Applicant's affidavit that is not found in the record will be afforded no weight.

Analysis

[20] I find the Officer's decision to be reasonable.

Ugandan refugee status

[21] In the GCMS notes the Officer reports that the Applicant was interviewed in detail regarding his refugee narrative. Further, that the Officer also reviewed the documents submitted with the application. The Officer acknowledged that the Applicant had provided proof of refugee status granted by the Government of Uganda and stated that this status was considered as part of their decision.

[22] The Officer indicated that Uganda acknowledges Convention refugees and has a similar country of asylum class (section 4 (c) of the *Refugee Act*. However, they also pointed out that Uganda's version of asylum class does not require an applicant to be "personally and seriously affected" or "continue to be affected" which are important elements of the *IRP Regulation* definition and assessment. Further, that it was also impossible to know under which qualification category a person was designated a refugee by Uganda.

[23] The Officer afforded more weight to the evidence brought before them as part of the application and interview than to the Applicant's status in Uganda because the Government of Uganda's definition of refugees differed from the *IRP Regulation* definitions. Further, having conducted the interview, the Officer was not satisfied that the Applicant met the definition for either the Convention refugee class or the country of asylum class.

[24] The Applicant asserts that the Officer failed to cite the provisions of the *IRP Regulations* which support a requirement that an asylum seeker be "personally and seriously affected" or "continue to be affected," failed to cite the *IRP Regulations* which define a refugee, and did not state how Canada's definition differs from Uganda's. According to the Applicant, this lack of

citation and references makes it very difficult to follow the Officer's analysis and renders the decision unreasonable as there is no rational chain of analysis.

[25] There is no merit to this argument.

[26] Section 147 of the *IRP Regulations* states that a foreign national is a member of the country of asylum class if (a) they have been determined by an officer to be in need of resettlement because they are outside all of their countries of nationality and habitual residence; and (b) *and they have been, and continue to be, seriously and personally affected by civil war, armed conflict or massive violation of human rights in each of those countries*. Similarly, section 145 of the *IRP Regulations* states that a foreign national is a Convention refugee abroad and a member of the Convention refugees abroad class if the foreign national has been determined, outside Canada, by an officer to be a Convention refugee. Section 96 of the *IRPA* defines Convention refugee.

[27] The November 14, 2024, decision letter set out a number of provisions of the *IRPA* and the *IRP Regulations*, including section 147(b) of the latter. Further, in the GCMS notes the Officer explicitly states that the Applicant “does not meet the definitions of either the Convention Refugee or Country of Asylum Class pursuant to R145 and R147 of the IRPR.” Contrary to the Applicant's submission, the Officer explained how Uganda's similar country of asylum class definition under its legislation differed from the *IRP Regulation* definition. In my view, the provisions of the *IRPA* and the *IRP Regulations* that the Officer relied on in making

their decision were clearly identified in the reasons for their decision as was the Officer's chain of analysis.

[28] Further, as held by Justice Turley in the factually similar matter of *Nur v Canada (Citizenship and Immigration)*, 2025 FC 1700 at paras 5 - 7, the jurisprudence of this Court has held that refugee recognition by another country is not determinative of an applicant's refugee status in Canada. Rather, immigration officers are required to conduct their own assessment of an applicant's eligibility which includes an assessment of their credibility. This is precisely what the Officer did in this case.

Credibility

[29] The Applicant submits that there were no real credibility concerns or issues regarding inconsistencies in the information provided that supported the denial of his claim. While the Officer stated that Schedule 2 of his application provided no details as to the Applicants specific reasons for fleeing Somalia, the Applicant submits that this is factually incorrect. This is because, in addition to mentioning general insecurity, he also mentioned fear about frequent attacks on youth from terror groups. The Applicant states that "evidently the terror group he was referring to as elicited in the immigration interview is Al Shabaab" and that it was clear that he feared returning to Somalia as a young person due to his fear of Al Shabaab. He submits that he provides more information about this in his affidavit and that he provided this same information to the Officer.

[30] I note that Schedule 2, case narrative, asks various questions. These include:

1. Please describe in as much detail as possible the specific events which led you to flee your home country. You should include any actions taken against you, your family members, or any others in a similar situation. If the events were generalized, please describe how they affected you personally or what led to you fearing for your safety. You should also indicate whether you sought protection from the authorities of your country and if not, why not. For each incident, specify the date (month / year) the event(s) occurred.

[31] The Applicants' response to this question was: "I have fled from my country due to political instability. War and more over frequent attack on youth from terror group. I was helped by mother who sold our only piece of land and paid for my travel expenses." In response to the question "Are you able to return to your home country? If not, why?" he submitted "I am not able to return to my home because of the insecurity."

[32] Given this, the Officer accurately found that the Applicant's narrative contains limited information. While the Applicant now attempts to tie his fear of return to Somalia to the Al Shabaab, as he asserted during his interview, there is no reference to that group in his application narrative. Further, as discussed above, much of his evidence contained in his affidavit filed in support of his application for judicial review does not appear to have been before the Officer.

[33] When appearing before me, counsel for the Applicant argued that the Officer should have been familiar with the country conditions in Somalia and that it is a "fact" that Al Shabaab is everywhere in that country. Further, that the Applicant, who is unsophisticated, was not required to provide objective evidence to the Officer to support his claim. Counsel does not point to any regulatory provision or jurisprudence that supports that an applicant seeking Convention refugee

or country of asylum class protection is exempted from any obligation to provide objective evidence. However, and in any event, the onus is on the Applicant to establish his refugee claim.

[34] In that regard, I note that the Officer, in finding the Applicant not to be credible, referred to the inconsistencies in his evidence and stated that they had also considered open-source (objective) information. The Officer found that there was a lack of forward-looking risk as in the nearly four years since the Applicant left Somalia Al Shabaab had not contacted his family there making threats and the Applicant had offered no other information to substantiate his claim of being at risk upon return. While the Officer did not identify the open-source information they considered in making their decision, nor does the Applicant point to any open-source information contradicting the Officer's finding.

[35] In my view, no reviewable error arises.

[36] The Applicant also submits that while the Officer pointed out that in his narrative the Applicant indicated that he was a student and did not mention that he worked with his uncle, the narrative he provided was a "summary" which he elaborated upon at the interview. He submits that the omission of peripheral details in a narrative is not a reasonable basis for concern (citing *Feradov v Canada (Citizenship and Immigration)*, 2007 FC 101 at paras 18-19) and that the Officer drew a negative credibility inference from the lack of detail regarding his uncle without explaining why the fact that the Applicant worked for his uncle was material to his claim.

[37] Again, there is no merit to these submissions. The Officer's concern is clear from their reasons. The Applicant at his interview told a harrowing story of working in his uncle's shop when Al Shabaab militants entered, demanded money and, when refused, fatally shot his uncle in front of the Applicant who then escaped through a back door. Yet he made no mention of this significant event or even working with his uncle – which work was the circumstance that allegedly served to place him in harm's way – in his narrative. This is not a peripheral detail and the fact that the Applicant claims to have worked in his uncle's shop is clearly material to his allegation of persecution. The Applicant's narrative makes no mention of this sequence of events which the Applicant now asserts was the reason he fled Somalia. The GCMS notes also demonstrate that the Officer put his concerns to the Applicant but was not satisfied with his explanation for the inconsistencies. In these circumstances, it was reasonable for the Officer to find the Applicant not to be credible based on this material omission and discrepancy. Moreover, credibility assessments generally command a high degree of judicial deference (*Cao v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 364 at para 14; *Onwuasoanya v Canada (Citizenship and Immigration)*, 2022 FC 1765 at para 10).

[38] I also do not agree with the Applicant's submission that the Officer was adamant on finding "any inconsistency" rather than assessing whether the Applicant was a Convention refugee and should be granted residency in Canada. Nor do I agree with the Applicant that the Officer accepted that he worked at his uncle's shop, that the shop was targeted by Al Shabaab, and the fact of the murder. The Officer did not make those findings and instead found the Applicant not to be credible. In any event, as discussed above, while the Applicant asserts that the Officer did not believe that Al Shabaab would be able to locate him if he returned to Somalia,

the Officer noted that in the nearly four years since the Applicant left Somalia there was no evidence that Al Shabaab was looking for him as the Applicant asserted. There had been no visits to this family's home, or any threats and the Applicant had not provided any further information to substantiate his claim of risk of persecution upon return to Somalia at the hands of Al Shabaab. That is, the Applicant failed to establish a forward-looking risk (*George v Canada (Citizenship and Immigration)*, 2014 FC 535 at para 14; *Li v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 1 at para 33).

[39] The onus is on an applicant to provide sufficient, credible evidence to support their claim. In this matter, the Applicant failed to do so. The Officer, therefore, reasonably denied his application.

JUDGMENT IN IMM-22465-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed;
2. There shall be no order as to costs; and
3. No question for certification was proposed and none arises.

"Cecily Y. Strickland"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-22465-24

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