

Federal Court



Cour fédérale

**Date: 20120720**

**Docket: IMM-6858-11**

**Citation: 2012 FC 908**

**Ottawa, Ontario, July 20, 2012**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**AHMED ALI  
ALL SAINTS CHURCH WINNIPEG**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] In 1991, Mr Ahmed Ali fled the fighting in Somalia with other family members. He and his half-brother Abdulkadir were captured by the militia and forced to work in a camp. After he escaped, the family made its way to a refugee camp in Ethiopia, where they lived for thirteen years. The family travelled to Uganda in 2005, and the following year applied for permanent residence in Canada as members of the Convention refugee abroad class or the country of asylum class. The family is sponsored by All Saints Church in Winnipeg.

[2] In 2011, a visa officer in Kampala, Uganda interviewed Mr Ali, as well as his mother, half-brother and sister. The officer denied their applications for a lack of credible evidence. All four applicants have sought judicial review. I have dealt with their applications separately (see IMM-6862-11 (*Quresh Osman*), IMM-6857-11 (*Abdulkadir Ali*) and IMM-6861-11 (*Naima Ali*)). This decision relates solely Mr Ahmed Ali.

[3] Mr Ali submits that the officer treated him unfairly by not giving him a chance to address her concerns about his evidence. He also contends that the officer rendered an unreasonable decision because her reasons do not identify the inconsistencies that caused her to doubt Mr Ali's credibility. Further, her concerns related to peripheral aspects of Mr Ali's evidence, not the core issues. He asks me to quash the officer's decision and order another officer to reconsider his application.

[4] I can find no basis for overturning the officer's decision. Mr Ali was given an adequate opportunity to submit supporting evidence and to address the officer's credibility concerns. Further, the officer's findings were not unreasonable; they arose from the evidence before her and Mr Ali's inability to explain discrepancies in it. I must, therefore, dismiss this application for judicial review.

[5] The issues are:

1. Did the officer treat Mr Ali unfairly?
2. Was the officer's decision unreasonable?

## II. The Officer's Decision

[6] The officer had concerns about Mr Ali's identity, the composition of his family, and the credibility of his account of events. Those concerns arose from the following evidence:

- Mr Ali could not produce identification documents at the interview. He claimed that his documents had been stolen two days earlier. He reported the theft to police, but he did not have a police report or a file number.
- Mr Ali explained that the mother of his son, his ex-wife, was named Faduma Abdi Salam Hersi. She lived in Somalia and could not care for their child. However, his UNHCR registration identified another woman, Idil Omar Ali, as his wife. Mr Ali claimed this was the result of an error of translation. He did not know who Idil Omar Ali was. However, when the officer mentioned her concerns about the composition of the family, Mr Ali explained that Idil Omar Ali was a woman he used to date and planned to marry. She now lived in Kenya. The officer pointed out that Mr Ali's sister had told her that Idil Omar Ali was Mr Ali's wife and the mother of his son, and lived in Kampala.
- Mr Ali gave inconsistent versions of his experiences of capture, escape, and crossing the border to Ethiopia.

[7] Based on these concerns, the officer had doubts about Mr Ali's identity, the composition of his family, and his account of events. She was not satisfied that he met the requirements for

permanent residence and dismissed his application.

III. Issue One – Did the officer treat Mr Ali unfairly?

[8] Mr Ali submits that the officer did not give him a fair opportunity to respond to her concerns. She did not give him a chance to replace his stolen identity documents, and she has not given any explanation for failing to do so. Nor did she identify the contradictions in his evidence that caused her to doubt his credibility.

[9] In my view, Mr. Ali had ample opportunity to provide supporting documents. Citizenship and Immigration Canada [CIC] twice informed Mr Ali that he needed to provide documentation supporting his application, once in 2007 and again in 2011. All that he provided before the interview was a letter from the UNHCR. He did not bring any additional documents to the interview.

[10] In a situation where an officer's concerns arise at an interview, he or she must generally give an applicant a reasonable opportunity to respond to them (*Khwaja v Canada (Minister of Citizenship and Immigration)*, 2006 FC 522, at para 17. Here, however, CIC gave Mr Ali plenty of notice. He could have supplied the necessary documents well before the interview.

[11] On cross-examination, the officer explained that she did not give Mr Ali further time to submit documents because he could not confirm the alleged theft by way of a police report or file number. Further, Mr Ali had not brought any other documentation with him to the interview.

[12] With respect to Mr Ali's evidence about Idil Omar, the officer specifically asked Mr Ali to respond to what his sister, Naima, had said about her. His answer contradicted his own evidence, the information in his application, and Naima's version. In my view, the officer gave Mr Ali a fair chance to resolve the contradictory information about Idil Omar's identity.

[13] The officer also gave Mr Ali a chance to resolve inconsistencies in his evidence. She noted discrepancies regarding his capture by the militia, his escape, crossing the border to Ethiopia, and his experiences there. Mr Ali could not explain those contradictions.

[14] In his application, Mr Ali stated that he and his brother were kidnapped by militiamen and held captive for a year. They escaped across the border to Ethiopia and rejoined their family with the help of a sympathetic militiaman. At the interview, Mr Ali explained that the family was arrested by militiamen and the men were separated from the women. They were detained for almost a month. His mother rescued them.

[15] In my view, by alerting Mr Ali to the fact that his version of the events surrounding his arrest, detention and release was inconsistent, the officer gave him a fair chance to clarify his evidence. He was unable to do so.

[16] In my view, Mr Ali was given an adequate opportunity to supply supporting documents and respond to the officer's concerns about his account of events. The officer treated him fairly in the circumstances.

IV. Issue Two – Was the officer’s decision unreasonable?

[17] Mr Ali submits that the officer’s concerns did not relate to the main issue before her – the risk to Mr Ali in Somalia. Her concerns about what happened on the trip from Somalia to Ethiopia and about Idil Omar Ali were at the fringe of his application.

[18] In my view, Mr Ali’s evidence created legitimate doubt about his overall credibility and, therefore, went to the core of his application. When given a chance, he simply could not resolve the contradictions in his own evidence. Further, Mr Ali’s explanation of his relationship with Idil Omar Ali related to his marital situation and, therefore, was relevant to the availability of safe alternatives to permanent residence in Canada. Clearly, his evidence on that subject was contradictory. The officer properly took it into account in concluding that Mr Ali had not met the requirements for permanent residence.

[19] The officer’s concerns about Mr Ali’s credibility arose from the evidence before her and, therefore, her decision was not unreasonable.

V. Conclusion and Disposition

[20] The officer’s reasons accorded with the evidence before her and her conclusion represented a defensible outcome based on the facts and the law. Accordingly, her decision was not unreasonable and I must, therefore, dismiss this application for judicial review.

[21] Counsel for Mr Ali proposed the following questions for certification:

1. In an application for permanent residence at a Canadian visa office abroad, does the visa office breach the duty of fairness owed the applicant by basing the decision in part on interviews with other, related applicants, but not disclosing the entirety of those other interviews to the applicant with an opportunity for comment?
2. Is there a breach in the duty of fairness owed an application for immigration at a visa post abroad where
  - (a) the visa office interviews a number of related applicants separately,
  - (b) refuses the application of the applicant based on inconsistencies with the interviews of the other related applicants, and
  - (c) the visa office does not disclose to the applicant the inconsistencies with an opportunity to respond?

[22] No questions need to be stated. Question 1 does not arise on the facts of this case. The officer did not base her decision on what other family members had said. Rather, she presented Naima's evidence about Idil Omar to Mr Ali to explain and, in doing so, gave Mr Ali a fair opportunity to clarify the contradictions in his own evidence. Similarly, Question 2 does not arise because the officer did give Mr Ali a fair opportunity to respond.

**JUDGMENT**

**THIS COURT’S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No serious question of general importance will be stated.

“James W. O’Reilly”

---

Judge



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

**DOCKET:** IMM-6858-11

**STYLE OF CAUSE:** AHMED ALI, et al  
v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Winnipeg, Manitoba

**DATE OF HEARING:** April 19, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** July 20, 2012

**APPEARANCES:**

David Matas FOR THE APPLICANTS

Aliyah Rahaman FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

David Matas FOR THE APPLICANTS

Barrister and Solicitor  
Winnipeg, Manitoba

Myles J. Kirvan FOR THE RESPONDENT

Deputy Attorney General of Canada  
Toronto, Ontario