Federal Court Cour fédérale

Date: 20200130

Docket: IMM-1949-19

Citation: 2020 FC 172

Ottawa, Ontario, January 30, 2020

PRESENT: Mr. Justice Russell

BETWEEN:

OSMAN ALI ABDI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. INTRODUCTION

[1] This is an application under s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], for judicial review of the decision of the Refugee Appeal Division of the Immigration and Refugee Board of Canada [RAD], dated March 1, 2019 [Decision], which denied the Applicant's appeal of the Refugee Protection Division of the Immigration and

Refugee Board's [RPD] decision denying the Applicant's refugee and person in need of protection claim under ss 96 and 97 of the *IRPA*.

II. BACKGROUND

[2] The Applicant claims to be a citizen of Somalia. He states that he was born in Mogadishu and raised in Mugambo, a village in the Lower Juba region of Somalia. The Applicant says that he is a Sunni Muslim and a member of the Sure sub-clan. He grounds his claim in his fear of persecution and harm by Al-Shabaab.

[3] The Applicant submits that, in 2007, his teacher was replaced by an extremist member of Al-Shabaab who began teaching and promoting violent jihad. In response, the Applicant's father took him out of school. However, the Applicant claims that Al-Shabaab subsequently sent a letter to the Applicant's father threatening to kill him and his family should the Applicant and his brother fail to return to school. In response, the Applicant says his father sent him to Kenya for his own safety.

[4] In 2011, the Applicant alleges that he left Kenya for South Africa and claims to have obtained refugee status there. However, the Applicant submits that he was forced to flee South Africa due to attacks on his shop.

[5] The Applicant arrived in the United States of America [USA] in January 2016 where he made an asylum claim. However, in November 2016, the Applicant crossed the border into

Canada and made a refugee claim. The Applicant submits that he chose to abandon his asylum claim in the USA because he feared deportation.

[6] The RPD rejected the Applicant's claim on November 1, 2017. In essence, the RPD found that the Applicant was not credible and had not met the burden to establish his identity on a balance of probabilities. The Applicant appealed the RPD's decision to the RAD.

III. DECISION UNDER REVIEW

[7] On March 1, 2019, the RAD dismissed the Applicant's appeal of the RPD's decision and found, following an independent assessment of the evidence at hand, that the Applicant had not established his identity on a balance of probabilities. As such, the RAD upheld the RPD's conclusion that the Applicant was not a refugee or a person in need of protection under ss 96 and 97 of the *IRPA*.

A. *New Evidence and Request for Oral Hearing*

[8] Before assessing the merits of the appeal, the RAD first considered whether the new evidence submitted by the Applicant was admissible as per the criteria set out in s 110(4) of the *IRPA*. Following this analysis, the RAD assessed whether a new oral hearing was appropriate as per the RAD's discretion pursuant to s 110(6) of the *IRPA*.

[9] The RAD found that the affidavit of Ms. Amiira Yossuf Barre, the sponsorship application of Mr. Abdirisak Muse Hassan, and a photograph depicting Mr. Abdirisak Muse

Hassan and the Applicant together were all admissible pursuant to s 110(4) of the *IRPA*. Indeed, the RAD found them to be credible, relevant, and new.

[10] However, the RAD found that an oral hearing was not justified in this case. The RAD noted that the new evidence did not raise a serious issue with respect to the Applicant's credibility, nor was it central to the Decision and, if accepted, would not justify allowing or rejecting the Applicant's claim. The RAD found that Mr. Abdirisak Muse Hassan's sponsorship application and photographs had little probative value for his refugee claim and, as such, did not warrant convoking an oral hearing. As for Ms. Barre's affidavit, the RAD found that its probative value would not overcome the other problems with the Applicant's claim as: (1) she last saw the Applicant in Somalia in 2007 when she was fourteen; (2) she did not have a close relationship with him; (3) the affidavit did not contain any other evidence to corroborate her former residence in Jaamame, Somalia; (4) no corroborative documents were provided to allow the RAD to determine that they had a consistent history in the Jaamame district; and (5) there was no indication as to whether she was willing to act as a witness.

B. *Merits of the Appeal*

[11] Moving to the merits of the appeal, the RAD considered two main issues. First, whether the RPD's conduct during the hearing resulted in a breach of natural justice and, second, whether the RPD erred in its identity finding as well as in its treatment of the supporting evidence.

(1) Breach of Procedural Fairness and Natural Justice

[12] The RAD found that no breach of natural justice arose from the RPD's conduct. The Applicant submitted that the RPD member was aggressive, spoke to him in abrupt terms, and used a loud voice causing him to feel intimidated, nervous and unable to focus and respond comprehensively to the RPD's questions. However, the RAD noted that its own review of the hearing materials did not identify any instances of poor conduct by the RPD. Moreover, it faulted the Applicant for not identifying any specific examples, nor raising any issues of natural justice or procedural fairness at the RPD hearing itself, given that breaches of procedural fairness must be raised at the earliest possible opportunity (*McCurvie v Canada (Citizenship and Immigration)*, 2013 FC 681 at paras 64-65).

(2) Assessment of the Applicant's Identity

[13] The RAD found that it agreed with the vast majority of the RPD's findings and concluded that there were valid reasons to doubt the Applicant's credibility as well as his identity. The RAD concluded that the Applicant's identity had not been established and therefore rejected his claim on this basis.

[14] First, the RAD agreed with the negative inferences drawn by the RPD from the fact that the Applicant had first stated in his Basis of Claim form that his USA refugee claim was rejected, but then amended it to say that he had abandoned his claim once the RPD asked for an audio recording of the proceedings. The RAD further noted that the Applicant's evolving and contradictory testimony on this issue supported the negative inferences, and that the Applicant's

explanation concerning his fear of deportation was not logical. As such, the RAD found that the Applicant's refugee claim in the USA was denied as originally indicated, and that he amended his Basis of Claim form in order to withhold information about the proceedings that took place in the USA. The RAD consequently assigned little weight to the Applicant's birth certificate photocopy, his USA asylum documents, and the positive identity determination following a credible fear interview in the USA, which appeared to have been grounded on the basis of the Applicant's statements and some unspecified other documents but not on any government-issued identification.

[15] Second, the RAD drew a negative inference in relation to the Applicant's identity as a result of the multiple inconsistencies regarding his date of birth. The RAD found that, although one typographical error would likely not justify a negative inference, the Applicant had listed his date of birth as January 1, 1990, in several of his refugee forms, and even in his USA asylum documents. This contradicted his testimony and his alleged birth certificate, which indicate his date of birth as being January 11, 1990.

[16] Third, the RAD found that the RPD had erred in drawing a negative inference as to the Applicant's identity based on the fact that he did not describe a clan lineage consistent with the National Documentation Package [NDP] for Somalia. The RAD noted the flexibility of genealogical tracing in Somali culture for social and political positioning and acknowledged that the Applicant's understanding of his clan lineage might not be exactly consistent with the NDP. However, the RAD did not find that this error changed its finding that the Applicant had not credibly established his identity.

[17] Fourth, the RAD agreed with the RPD's decision to give no weight to Mr. Abdirisak Muse Hassan's affidavit. The affidavit states that he and the Applicant grew up together in Kismayo, in a village called Mugambo. This was inconsistent with the Applicant's testimony, which indicated that Mugambo was a one to two-hour drive from Kismayo. As such, the RAD found that this inconsistency, combined with the fact that Mr. Abdirisak Muse Hassan was unavailable to be cross-examined to explain this discrepancy, justified giving no weight to this affidavit. The RAD further noted that this inconsistency could not be cured by the Applicant's new evidence. Specifically, the RAD stated that Ms. Barre's affidavit, which describes Mugambo village as being on the outskirts of Kismayo, could not overcome the fact that the Applicant stated that Mugambo and Kismayo are one to two hours away from each other and claimed to have lived in an entirely different district. Concerning Mr. Abdirisak Muse Hassan's sponsorship application and photos, the RAD stated that the former did not indicate his residential history, while the latter did not establish that they knew each other in Somalia.

[18] Fifth, the RAD agreed with the RPD that little weight should be given to the notarized letter from Ms. Faiza Abdulkadir. The RAD found that the letter could not credibly speak to the Applicant's identity as it did not indicate: whether the Applicant is a citizen of Somalia; whether she or the Applicant ever lived in Somalia; whether the two ever saw each other in Somalia; or any mutual family members' names. Furthermore, the original document was not provided to the RPD and Ms. Abdulkadir was not made available as a witness.

[19] Sixth, the RAD agreed with the RPD's decision to assign low weight to the affidavit of Mr. Abdirahaman Omar Hassan, who the Applicant alleged to be a Somalian he met in

South Africa in 2012. The RAD found that the affiant was not in a position to reliably assess the Applicant's nationality, nor did the affidavit assess the Applicant's knowledge of Somali geography, culture, or language skills. Moreover, the RAD noted that there was no evidence to corroborate that the Applicant was accepted as a refugee in South Africa.

[20] Finally, the RAD found that the support letters from Dejinta Beesha and Midaynta, two Somali community organizations in Canada, merited little weight. Though both organizations reached the conclusion that the Applicant is a Somali national, the RAD noted that there was little detail to indicate that the Applicant is a Somali national and not simply an ethnic Somali from another country in East Africa such as Ethiopia, Kenya, or Djibouti. The RAD also noted that these organizations were only acquainted with the Applicant in Canada for the purposes of his refugee claim.

[21] In conclusion, the RAD found that an overall assessment of the evidence in this case led to the conclusion that the Applicant had not established his identity. Though the RAD acknowledged that Ms. Barre's affidavit was the strongest evidence provided by the Applicant, it also found that it was not sufficient to tip the balance of evidence in his favour, given the concerns noted above as to its probative value. As such, the RAD dismissed the Applicant's appeal.

IV. ISSUES

[22] The issues to be determined in the present application are the following:

1. Did the RAD err in not convoking an oral hearing?

2. Did the RAD violate the Applicant's right to procedural fairness and natural justice?

3. Did the RAD err in its credibility and identity findings?

V. STANDARD OF REVIEW

[23] This application was argued prior to the Supreme Court of Canada's recent decisions in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] and *Bell Canada v Canada (Attorney General)*, 2019 SCC 66. This Court's judgment was taken under reserve. The parties' submissions on the standard of review were therefore made under the *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] framework. However, given the circumstances in this matter, and the Supreme Court of Canada's instructions in *Vavilov* at para 144, this Court found that it was not necessary to ask the parties to make additional submissions on the standard of review. I have applied the *Vavilov* framework in my consideration of the application and it does not change the applicable standards of review in this case nor my conclusions.

[24] In *Vavilov*, at paras 23-32, the majority sought to simplify how a court selects the standard of review applicable to the issues before it. The majority did away with the contextual and categorical approach taken in *Dunsmuir* in favour of instating a presumption that the reasonableness standard applies. However, the majority noted that this presumption can be set aside on the basis of (1) clear legislative intent to prescribe a different standard of review (*Vavilov*, at paras 33-52), and (2) certain scenarios where the rule of law requires the application of the standard of correctness, such as constitutional questions, general questions of law of

central importance to the legal system as a whole and questions regarding the jurisdictional boundaries between two or more administrative bodies (*Vavilov*, at paras 53-64).

[25] In this case, the Applicant did not make any submission as to the applicable standard of review. The Respondent, on the other hand, submitted that the standard of correctness applied to the issues of procedural fairness while the standard of reasonableness applied to this Court's review of whether the RAD should have convoked an oral hearing as well as the review of the RAD's credibility and identity findings.

[26] Some courts have held that the standard of review for an allegation of procedural unfairness is "correctness" (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paras 59 and 61 [*Khosa*]). The Supreme Court of Canada's decision in *Vavilov* does not address the standard of review applicable to issues of procedural fairness (*Vavilov*, at para 23). However, a more doctrinally sound approach is that no standard of review at all is applicable to the question of procedural fairness. The Supreme Court of Canada in *Moreau-Bérubé v New Brunswick (Judicial Council)*, 2002 SCC 11 stated that the issue of procedural fairness:

> requires no assessment of the appropriate standard of judicial review. Evaluating whether procedural fairness, or the duty of fairness, has been adhered to by a tribunal requires an assessment of the procedures and safeguards required in a particular situation (*Moreau-Bérubé,* para 74).

[27] As for the standard of review applicable to this Court's review of whether the RAD should have convoked an oral hearing and the RAD's credibility and identity findings, I agree with the Respondent that the standard of reasonableness applies. There is nothing to rebut the

presumption that the standard of reasonableness applies in this case. The application of the standard of reasonableness to these issues is also consistent with the existing jurisprudence prior to the Supreme Court of Canada's decision in *Vavilov*. See *Ikheloa v Canada (Citizenship and Immigration)*, 2019 FC 1161 at para 7; *Galamb v Canada (Citizenship and Immigration)*, 2019 FC 580 at para 6) regarding this Court's review of a decision-maker's decision to grant an oral hearing, and *Li v Canada (Citizenship and Immigration)*, 2019 FC 537 at para 12; *Pretashi v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1105 at para 26 concerning this Court's review of a decision-maker's credibility and identity findings.

[28] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with whether it "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" (*Vavilov*, at para 99). Reasonableness is a single standard of review that varies and "takes its colour from the context" (*Vavilov,* at para 89 citing *Khosa,* at para 59). These contextual constraints "dictate the limits and contours of the space in which the decision maker may act and the types of solutions it may adopt" (*Vavilov*, at para 90). Put in another way, the Court should intervene only when "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100). The Supreme Court of Canada lists two types of fundamental flaws that make a decision unreasonable: (1) a failure of rationality internal to the decision-maker's reasoning process; and (2) untenability "in light of the relevant factual and legal constraints that bear on it" (*Vavilov*, at para 101).

VI. STATUTORY PROVISIONS

[29] The following statutory provisions of the *IRPA* are relevant to this application for judicial review:

Convention refugee	**Définition de réfugié**
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,	96 A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :
(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themself of the protection of each of those countries; or	a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays ;
(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.	b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.
Person in need of protection	**Personne à protéger**
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	97 (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

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

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture ;

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

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

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

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,

(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,

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

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

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

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

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

Appeal to Refugee Appeal Division

Appel devant la Section d'appel des réfugiés

Procedure

Fonctionnement

110 (3) Subject to subsections (3.1), (4) and (6), the Refugee Appeal Division must proceed without a hearing, on the basis of the record of the proceedings of the Refugee

110 (3) Sous réserve des paragraphes (3,1), (4) et (6), la section procède sans tenir d'audience en se fondant sur le dossier de la Section de la protection des réfugiés, mais

Protection Division, and may accept documentary evidence and written submissions from the Minister and the person who is the subject of the appeal and, in the case of a matter that is conducted before a panel of three members, written submissions from a representative or agent of the United Nations High Commissioner for Refugees and any other person described in the rules of the Board.

peut recevoir des éléments de preuve documentaire et des observations écrites du ministre et de la personne en cause ainsi que, s'agissant d'une affaire tenue devant un tribunal constitué de trois commissaires, des observations écrites du représentant ou mandataire du Haut-Commissariat des Nations Unies pour les réfugiés et de toute autre personne visée par les règles de la Commission.

Evidence that may be presented

110 (4) On appeal, the person who is the subject of the appeal may present only evidence that arose after the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented, at the time of the rejection.

Éléments de preuve admissibles

110 (4) Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés, dans les circonstances, au moment du rejet.

Hearing

110 (6) The Refugee Appeal Division may hold a hearing if, in its opinion, there is documentary evidence referred to in subsection (3)

(a) that raises a serious issue with respect to the credibility of the person who is the subject of the appeal;

(b) that is central to the decision with respect to the refugee protection claim; and

Audience

110 (6) La section peut tenir une audience si elle estime qu'il existe des éléments de preuve documentaire visés au paragraphe (3) qui, à la fois :

a) soulèvent une question importante en ce qui concerne la crédibilité de la personne en cause ;

b) sont essentiels pour la prise de la décision relative à la demande d'asile ;

(c) that, if accepted, would justify allowing or rejecting the refugee protection claim.	c) à supposer qu'ils soient admis, justifieraient que la demande d'asile soit accordée ou refusée, selon le cas.

VII. ARGUMENTS

A. *Applicant*

[30] The Applicant argues that the RAD erred by: (1) refusing to convoke an oral hearing in light of the new evidence presented; (2) breaching the Applicant's right to procedural fairness and natural justice by taking an incorrect approach to assessing the RPD's behaviour and by failing to give the Applicant an opportunity to respond to new credibility findings; and (3) unreasonably assessing the evidence in making its credibility and identity findings. Consequently, the Applicant argues that this judicial review should be allowed.

(1) Oral Hearing

[31] The Applicant argues that an oral hearing should have been held in this case in order to permit him to address the credibility issues raised by the RAD with regard to the new evidence submitted. He states that an oral hearing would have been beneficial in order to clear up any confusion and allow him to provide further evidence. The Applicant cites this Court's decision in *Ajaj v Canada (Citizenship and Immigration)*, 2016 FC 674 at paras 21-22 [*Ajaj*] where it is noted that:

> [21] This may be contrasted with this Court's decision in *Husian v Canada (Minister of Citizenship and Immigration)*, 2015 FC 684. In that case, Justice Hughes found that where the RAD makes new credibility findings, the parties must be given an opportunity to make submissions.

> [22] The arrest warrant and circular letter that Mr. Ajaj submitted raised a new credibility issue that was unconnected to the RPD's and RAD's negative credibility findings regarding the genuineness of his conversion from Islam to Christianity. The new evidence was central to the decision regarding his *sur place* claim. If the documents had been accepted by the RAD as authentic, then they would substantiate Mr. Ajaj's fear of persecution by the authorities in Yemen and his *sur place* claim could potentially succeed. For that reason, the criteria of s 110(6) of the IRPA were met, and the RAD erred in failing to convene an oral hearing.

[32] The Applicant argues that his case is analogous to *Ajaj* as the RAD largely discredited Ms. Barre's affidavit due to the fact that she was only fourteen when she last saw the Applicant and because she did not provide her own Basis of Claim form. He argues that this amounts to a new credibility finding and, as such, an oral hearing should have been convoked. By failing to do so, the Applicant argues that the RAD fettered its discretion under s 110(6) of the *IRPA* in a similar way to the decision in *Tchangoue v Canada (Citizenship and Immigration)*, 2016 FC 334 at para 18 where the Court noted that "the weight given to the new evidence should not have been the determining factor in its decision not to hold an oral hearing."

(2) Breach of Procedural Fairness and Natural Justice

[33] The Applicant argues that the RAD erred in determining that there was no breach of his right to natural justice and procedural fairness. He submits that the RAD took a backward approach to analyzing the RPD's behaviour by not recognizing that the RPD's aggressive interrogation caused the Applicant to change his testimony due to anxiety and intimidation.

[34] The Applicant also argues that he should have been given an opportunity to respond to the RAD's new credibility findings, notably concerning the RAD's reversal of the RPD's finding that the Applicant had been accepted as a refugee in South Africa.

[35] The Applicant further states that counsel could not have known the impact of the RPD's behaviour on the Applicant during the hearing because counsel cannot read the Applicant's mind. As such, it is logical that the Applicant and his counsel did not object to the RPD's behaviour at the hearing.

(3) Credibility and Identity Findings

[36] The Applicant argues that the RAD's credibility and identity findings were unreasonable because the RAD took an overzealous approach to assessing the evidence in this case that is inconsistent with this Court's jurisprudence.

[37] First, the Applicant argues that the RAD erred by placing less weight on Ms. Barre's affidavit simply because it dealt with events that took place when she was fourteen. The Applicant states that this goes against the presumption of truthfulness at stated in *Dirieh v Canada (Citizenship and Immigration)*, 2018 FC 939 at paras 23-30. Instead, the Applicant submits that Ms. Barre's affidavit, along with the other evidence, clears up the perceived inconsistency relating to the location of Mugambo and cannot be dismissed simply because of what it does not say, citing *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] 157 FTR 35 at para 17.

[38] Second, the Applicant argues that the RAD unreasonably disregarded Mr. Abdirisak Muse Hassan's sponsorship application and his photographs. Regarding the former, the RAD allowed the RPD's negative findings to colour its appreciation of this new evidence and to give it little weight simply because it did not contain Mr. Abdirisak Muse Hassan's residential history, which the Applicant notes had already been provided in an affidavit. Concerning the photographs, the Applicant argues that a contextual approach to the evidence, as mandated by this Court, would have demonstrated that the photographs were taken with the Applicant in Somalia (*Warsame v Canada (Citizenship and Immigration)*, 2019 FC 118 at para 18).

[39] Third, the Applicant argues that the RAD erred by upholding the RPD's finding concerning the weight given to Ms. Abdulkadir's affidavit and dismissing the pertinent information concerning the Applicant's identity simply because it did not resolve the inconsistencies concerning the Applicant's claim in the USA. The Applicant also argues that the RAD erred in dismissing the affidavit simply because Ms. Abdulkadir was not called to testify at the hearing as this is inconsistent with this Court's jurisprudence, citing *Shahaj v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1044 at para 9.

[40] Fourth, the Applicant argues that the RAD unreasonably gave Mr. Abdirahaman Omar Hassan's affidavit low evidentiary weight simply because the affiant had not known the Applicant in Somalia. The Applicant argues that the affiant is also Somali and is uniquely positioned to assess the Applicant's identity claim as he can assess his language skills, his geographic knowledge, and his cultural knowledge. The Applicant states that the RAD took an overly critical approach to the evidence presented as warned against by this Court in *Abdullahi v*

Canada (Citizenship and Immigration), 2015 FC 1164 at paras 9-10 which explicitly recognized that it "is notorious that government documents from Somalia are virtually unobtainable" and applicants must therefore rely on secondary sources to establish identity.

[41] Fifth, the Applicant submits that the RAD was overzealous in rejecting his USA claim documents simply because he corrected his Basis of Claim form. The RAD erroneously fixated on this minor correction to his narrative to ground its rejection of the entire body of evidence relating to his claim in the USA, including the credible fear interview, which confirmed his identity. The Applicant argues that this is inconsistent with this Court's jurisprudence as it unreasonably fixates on a fact that is not central to his claim (*Zhang v Canada (Citizenship and Immigration)*, 2007 FC 665 at para 6) and unreasonably rejects the evidence, while at the same time using its contents to impeach the Applicant's credibility (*Csiklya et al v Canada (Minister of Citizenship and Immigration)*, October 30, 2012, IMM-654-12).

[42] Sixth, the Applicant submits that the RAD unreasonably assigned negative weight to the fact that the Applicant mistakenly listed his date of birth as January 1, 1990, instead of January 11, 1990. The Applicant argues that this Court has already made it clear that a credibility finding cannot be grounded in an innocent typographical error (*Ali v Canada (Citizenship and Immigration)*, 2015 FC 814 at para 31 and *Mohamud v Canada (Citizenship and Immigration),* 2018 FC 170 at para 6).

[43] Finally, the Applicant argues that the RAD erred in dismissing the support letters from the Somali community organizations in Canada. The Applicant says that these letters confirm

that he is a Somali national, and are based on extensive interviews by knowledgeable individuals. They also attest to the Applicant's knowledge of the language, history, and geography of Somalia. This is consistent with the relevant factors identified by this Court to establish an applicant's identity (*Lin v Canada (Minister of Citizenship and Immigration)*, 2006 FC 84 at para 13).

B. *Respondent*

[44] The Respondent contends that: (1) an oral hearing was not required in this case as the RAD's findings concerning the new evidence related to its sufficiency rather than its credibility; (2) the Applicant provides no evidence to support the alleged breach of procedural fairness and natural justice; and (3) the RAD's credibility and identity findings were reasonable and the Applicant simply disagrees with the weighing of the evidence. Consequently, the Respondent submits that this judicial review should be dismissed.

(1) Oral Hearing

[45] The Respondent argues that oral hearings are not automatically mandated by s 110(6) and no hearing was required in this case. The RAD retains significant discretion to convoke an oral hearing and the Applicant is not entitled to one simply because it may be beneficial, or because it is the best procedure available.

[46] In this case, the Respondent submits that none of the RAD's conclusions diverge in any substantial or material way from the RPD's findings or from the Applicant's submissions to the

RAD. Although the Applicant claims that the RAD made credibility findings concerning the new evidence submitted, the Respondent argues that the Applicant confuses the distinct concepts of credibility and sufficiency of evidence. Indeed, the Respondent states that the RAD only assessed the quality and weight of the evidence adduced and found that the new evidence presented was simply insufficient to allow it to come to a different conclusion than that of the RPD.

(2) Breach of Procedural Fairness and Natural Justice

[47] The Respondent submits that there was no breach of procedural fairness or natural justice in this case as the Applicant's assertions are without merit and were not raised in a timely manner.

[48] First, the Respondent states that the Applicant makes bald assertions that the RPD was aggressive, abrupt, and used a loud voice. Despite the fact that the Applicant did not cite any specific examples, the RAD undertook its own analysis of the hearing but could not find any instances of poor conduct by the RPD.

[49] Second, the Respondent states that the Applicant failed to raise any procedural fairness concerns at the RPD hearing. The Respondent notes that a failure to raise the issue at the first opportunity has been found by this Court to constitute a waiver of the right to later challenge an alleged breach (*Haniff v Canada (Citizenship and Immigration)*, 2012 FC 919 at para 15). The Respondent disagrees with the Applicant's argument that counsel was unable to raise this concern during the RPD hearing; it would have been evident to counsel had the RPD's conduct

been so objectionable that it gave rise to a breach of procedural fairness and natural justice. Furthermore, counsel and the Applicant had the opportunity to discuss this issue during breaks.

[50] Finally, the Respondent notes that natural justice did not require the RAD to provide the Applicant with an additional opportunity to address the RAD's observation that no evidence was presented to establish that he had been accepted as a refugee in South Africa.

(3) Credibility and Identity Findings

[51] The Respondent argues that the RAD's findings concerning the credibility and identity of the Applicant were reasonable and that the Applicant's arguments largely amount to a disagreement in the RAD's weighing of the evidence.

[52] First, the Respondent argues that the Applicant simply disagrees with the weight given to Ms. Barre's affidavit. The Respondent notes that it was reasonable for the RAD to conclude that Ms. Barre's affidavit did not overcome the inconsistencies in this case, given its insufficient probative value in establishing the Applicant's personal identity and nationality. Specifically, it was reasonable for the RAD to conclude that Ms. Barre's affidavit could not overcome the inconsistency regarding the location of Mugambo between the Applicant's testimony and the affidavit of Mr. Abdirisak Muse Hassan.

[53] Second, the Respondent submits it was reasonable for the RAD to find that Mr. Abdirisak Muse Hassan's sponsorship forms or photographs were of little probative value as they did not

establish the affiant's residential history, nor whether he and the Applicant knew each other in Somalia.

[54] Third, the Respondent states that the letter from Ms. Abdulkadir was not an affidavit, as submitted by the Applicant, nor was it rejected on the sole basis that its author was not made available for cross-examination. In fact, the RAD specifically reviewed the letter and noted that it did "a rather poor job" of speaking to the Applicant's identity. As such, the Respondent states that the RAD weighed Ms. Abdulkadir's letter appropriately.

[55] Fourth, the Respondent argues that the RAD's assessment of Mr. Abdirahaman Omar Hassan's affidavit was reasonable. The RAD did not doubt that the Applicant was an ethnic Somali; however, it was reasonable for the RAD to find that the affidavit did not specifically establish that the Applicant is a Somali national, given the fact that there are significant populations of ethnic Somalis in Kenya, Ethiopia, Djibouti, and elsewhere.

[56] Fifth, the Respondent states that it was reasonable for the RAD to conclude that the support letters from the Somali community organizations in Canada were insufficient to overcome the numerous credibility concerns in this case and to establish the Applicant's personal identity. The Respondent characterizes the Applicant's argument as simply a disagreement with the RAD's weighing of the evidence.

[57] Finally, the Respondent disagrees with the Applicant's characterization of the inconsistencies regarding the status of his refugee claim in the USA as well as the numerous

inconsistencies concerning his date of birth. The Respondent argues that these findings are not peripheral to the Applicant's credibility and identity.

VIII. ANALYSIS

A. *Failure to Convoke an Oral Hearing*

[58] The Applicant says that an oral hearing was required in this case because:

> [it] would have been beneficial to clear up any confusion and to have the Applicant provide further evidence on credibility issues, which is the intent of the legislative provision for an oral hearing.

[59] Section 110(6) of the *IRPA* reads as follows:

110 (6) The Refugee Appeal Division may hold a hearing if, in its opinion, there is documentary evidence referred to in subsection (3)	110 (6) La section peut tenir une audience si elle estime qu'il existe des éléments de preuve documentaire visés au paragraphe (3) qui, à la fois :
(a) that raises a serious issue with respect to the credibility of the person who is the subject of the appeal;	a) soulèvent une question importante en ce qui concerne la crédibilité de la personne en cause ;
(b) that is central to the decision with respect to the refugee protection claim; and	b) sont essentiels pour la prise de la décision relative à la demande d'asile ;
(c) that, if accepted, would justify allowing or rejecting the refugee protection claim.	c) à supposer qu'ils soient admis, justifieraient que la demande d'asile soit accordée ou refusée, selon le cas.

[60] The Applicant concedes that the RAD has the discretion on whether or not to convoke an oral hearing, but he says that this discretion must be exercised reasonably and, if new credibility

findings are made, it is unreasonable not to allow an applicant the opportunity to make submissions.

[61] The Applicant says that the s 110(6) factors were met in this case and that the RAD made new credibility findings. Hence, it was unreasonable not to convoke an oral hearing so that he could have an opportunity to address these alleged credibility concerns. The Applicant, however, simply asserts that the s 110(6) criteria are met in this case without explaining how.

[62] My review of the record and the Decision reveals that there was certainly considerable confusion about both the Applicant's documentary and oral evidence. However, this confusion (which included significant contradictions in the evidence) does not mean that the Applicant satisfied the criteria in s 110(6), or that he was entitled to an oral hearing to address mistakes and gaps in his written submissions to the RAD. As the Court held in *Sanchez v Canada (Citizenship and Immigration)*, 2016 FC 737 at para 7:

> [7] A hearing is not simply an opportunity to cooper up or fill in missing gaps in the evidence submitted. Here the Applicant, although personally signing the submissions to the PRRA Officer, clearly had some professional help in preparing the material whether by a lawyer or an immigration consultant or otherwise. At some point the Applicant, including those engaged by the Applicant, bear some responsibility to ensure that the materials filed are accurate and sufficient. If they are not, the Applicant cannot simply hope that a hearing would be held or, if not, then complain to the Court that procedural fairness was denied.

[63] In addition, my reading of the Decision confirms that the RAD does not, in fact, raise any "new" serious issues with respect to the credibility of the Applicant. Most of the Decision is

based upon the lack of sufficient evidence to prove the Applicant's personal identity and his nationality.

[64] The RAD made this clear even with regard to the Applicant's most helpful witness:

> [20] In regard to Ms. Barre's evidence, it is unclear whether the appellant wishes to call Ms. Barre as a witness. The appellant's memorandum does not specifically speak to this possibility, and Ms. Barre's affidavit mentions nothing of her willingness to act as a witness.
>
> [21] In any event, even if the RAD were to cross-examine Ms. Barre on the contents of her affidavit, the probative value of this evidence would not overcome the other issues. I note that Ms. Barre was born on February 4, 1993. She claims to have met the appellant in Somalia in 2002, when she was nine years old. She describes that she last saw the appellant in Somalia in early 2007, when she would have been only about 14 years old. She did not have a close relationship with the appellant in Somalia, but rather describes that he used to play soccer with her brother a few times a month, and that they frequently came home for refreshments. Ms. Barre's affidavit contains no other evidence to corroborate her former residence in Jaamame, where she claims the appellant would go to visit her home. No documents or evidence from her own refugee claim, such as her Basis of Claim Form and immigration forms, was provided that would at least allow the RAD to determine whether the two have a consistent history of residence in the Jaamame district.

[65] Given the insufficiency basis for the Decision, there is nothing unreasonable about the RAD's failure to convoke an oral hearing.

B. *Procedural Unfairness*

[66] In his written submissions before me, the Applicant raises the following procedural fairness issues:

> 17. With respect to the hearing, the Applicant indicated that the panel was aggressive and spoke to him in abrupt terms and using a loud voice. He felt intimidated and nervous. This affected his ability to focus and to respond fully to the panel's questions. However, the RAD found there was no breach of natural justice or procedural fairness.
>
> 18. The RAD stated that it listened to the tape and acknowledged that the hearing at times was challenging but ascribed this to what it called the Applicant's changing testimony. It is submitted that this is like putting the cart before the horse. The Applicant explained in his written statement that the aggressive manner and abrupt tone unnerved him and resulted in what the panel perceived as changing testimony.
>
> 19. Furthermore, the RAD found that since the RPD counsel did not object that, in essence, he had waived his rights to natural justice and procedural fairness. However, the counsel is not psychic and could not have known the impact on the Applicant during the hearing. All claimants are different. Some can withstand an aggressive tone and questioning and maintain focus. Some cannot and find that manner very unnerving. The Applicant was in the latter group.
>
> 20. It is submitted that the conduct of the hearing breached the principles of procedural fairness and therefore natural justice.

[67] In the Decision, the RAD addressed the procedural fairness issues as follows:

> [25] There are a number of difficulties with this argument.
>
> [26] First, the appellant fails to actually identify any specific examples from the hearing record of the RPD's supposedly poor conduct. Having reviewed the hearing record, I do not share the appellant's characterization of the RPD's conduct. There were aspects of the hearing that were certainly challenging. In particular, an issue arose during the hearing about the status of the appellant's asylum proceedings in the United States. When the RPD questioned the appellant about this, the appellant gave confusing testimony that was ultimately not responsive to the RPD's questions. The RPD repeated and rephrased its questions in an attempt to clarify matters for the appellant. When the appellant failed to answer the RPD's questions even after multiple attempts to clarify the issue, the RPD took a break. The RPD's questions were aimed at assisting the appellant in understanding the issue.

> Throughout the hearing, the RPD was forced to confront the appellant's discrepancies and inconsistencies. When the appellant seemed to become emotional, the RPD offered to give the appellant time for him to compose himself. I have not identified any instances of poor conduct by the RPD, especially under the circumstances that arose during the hearing.
>
> [27] Second, it is important to consider that the appellant's counsel at the RPD did not raise any issue of natural justice or procedural fairness at the hearing. There was no objection at any point in the hearing regarding the RPD's conduct. This is significant, as breaches of procedural fairness must be raised at the earliest possible opportunity. If the RPD's conduct was as poor as the appellant alleges, it is not reasonable that this issue has only arisen on appeal, after the appellant's claim had already been rejected.
>
> [28] In my own assessment of the hearing record, I find that the RPD's conduct did not give rise to a breach of procedural fairness or natural justice.

[68] The Applicant believes that this was an inadequate and unreasonable response to his procedural fairness concerns. At the hearing before me, I asked the Applicant's counsel to identify in the transcript where she thought the RPD was aggressive. She found one example where the Applicant is certainly pressed to explain a blatant contradiction in his evidence. But my review of this sequence suggests no more than the RPD affording the Applicant an opportunity to explain a major contradiction that was damaging to his case. The RPD needed to know whether the Applicant understood the contradiction and why an explanation was required. He now says that his inability to explain this contradiction was the result of the RPD's persistent and repetitive questioning (which he calls aggressive). The difficulty with this argument is that the questioning was only necessary because of the contradiction. In addition, the Applicant's counsel was present at the RPD hearing, and if they considered that the Applicant had not been given a fair opportunity to answer any question, or that his answers required some clarification,

then there was nothing stopping them from objecting to any line of questioning, or going over the matter again with the Applicant to ensure he had given the best answers he could. Yet, counsel did nothing. This has to be taken as a clear indication that, at the material time, the Applicant had not been badgered and that he had given the only answers he could give. Counsel would have been well aware of the significance of the contradiction and the failure of the Applicant to resolve it. Moreover, the Applicant has made no complaint about the competence or conduct of his legal counsel at the hearing.

[69] The Applicant has not established before me that the RAD erred in the matter of procedural fairness.

C. *Identity and Credibility Findings*

[70] The only issue of substance that the Applicant raises before me in this application is whether the RAD unreasonably erred in upholding the RPD's identity and credibility findings.

[71] First of all, I think it is worth mentioning that the RAD did not uphold all of the RPD's credibility findings. In the proper way, the RAD looked afresh at the issues raised in the Applicant's written submissions.

[72] On the important matter of the Applicant's clan lineage, the RAD had the following to say:

> [51] The RPD drew a negative inference on identity as the appellant did not describe a clan lineage that was consistent with the documentation in the National Documentation Package

> (“NDP”) for Somalia. On this particular issue, I find that the RPD erred.
>
> …
>
> [53] I agree with the appellant that the differences between his description of his clan lineage in comparison to one of the documents in the Somalia NDP should not have warranted a negative identity finding. The very document upon which the RPD relied begins with a preface, explaining that the paper’s outline of genealogy does not purport to be an accurate historical tree at any specific point in time. The paper explains the difficulties in mapping out an accurate genealogy, due to the multiple assimilations of groups to genealogical lines and even the manipulation of lines. The paper specifically states the following:
>
>> Surely, due to the fusion of narrative and fact, the idea that there will ever be an undisputed total genealogy is a chimera: the very basis of genealogical tracing in Somali culture is its flexibility as an idiom of social and political positioning of people: within the broad outlines of the major clan-families, alternative reckonings, reclassification and ‘manipulation’ of descent and lineages are the very game of Somali life.
>
> [54] As such, I disagree with the RPD’s characterization of the clan tables as “comprehensive”. It is possible that the appellant’s understanding of his clan lineage, and his own family’s understanding of their placement within the genealogy are not exactly consistent with the documentation in the NDP. I therefore find that the RPD erred on this issue, and I have not relied on it in my own assessment of the appellant’s identity.
>
> [References omitted.]

[73] Clan lineage is important, but it did not, *per se*, and without more, establish the Applicant’s personal identity, or that he is a Somali national. These are the principal issues dealt with in the Decision.

[74] In this application, the Applicant alleges that the RAD was unreasonable in all of its findings and asks the Court to examine each in turn.

(1) Affidavit of Amina Yossuf Barre

[75] At paragraph 11 of the Decision, the RAD accepted the affidavit of Ms. Barre and affirmed that it met "the criteria for credibility, relevance, and newness of evidence."

[76] The Applicant now complains that the "RAD erred by placing less weight on an affidavit simply because the affiant was relating events when she was 14 years old."

[77] The Applicant also asserts that the RAD gave the Barre affidavit little weight because it "could not cure the inconsistency of where Mugambo was." The Applicant asserts that there was no inconsistency to cure.

[78] As the RAD explained, the inconsistency was regarding the Applicant's place of residence in Somalia, and the Applicant's own evidence on this issue differed from that given in an affidavit by Mr. Abdirisak Muse Hassan, submitted by the Applicant before the RPD. The RAD explained the issue as follows:

> [56] The appellant intended to call Mr. Abdirisak Hassan as a witness by teleconference during his hearing. Despite multiple attempts to reach Mr. Hassan by telephone, he did not answer. The RPD was therefore unable to cross-examine the witness about the contents of his affidavit. In this case, this was significant as there was an inconsistency in the affidavit, in that Mr. Hassan indicated that the appellant lived in Kismayo, rather than in the Jamaame district.

[57] The appellant argues that the RPD erred in its treatment of Mr. Hassan's affidavit, as it was an error to discount it simply because the witness was not available for cross-examination. The appellant also submits that it was an error for the RPD to reject the affidavit and simultaneously rely on it to impeach the appellant's credibility.

[58] I agree with the appellant that it was an error for the RPD to both give the document no weight and simultaneously use its contents to impugn the appellant's residence history. However with that said, the RPD's reasons for giving the affidavit no weight are entirely valid. On my own review of the hearing record, the appellant's testimony is inconsistent with the contents of Mr. Hassan's affidavit. When questioned about his place of residence in Somalia, the appellant explained that he lived in Mugambo, a village located in the Jamaame district. He described that his village was a mere ten-minute walk away from Jamaame, which is a major town in the Lower Juba region. By contrast, the appellant indicated that Kismayo was much further away, about one or two hours' drive. However, the affidavit from Mr. Hassan indicates that the appellant's family moved to Kismayo when they were young, and that they lived in Kismayo and grew up there together, in a village called Mugambo.

[59] Given the different description of Mugambo's location given by the appellant in comparison to his witness' affidavit, the RPD expressed concern. When confronted with this discrepancy, the appellant merely answered that Mugambo is not too far from Kismayo, and not far from Jamaame. This inconsistency was sufficient for the RPD to discount the affidavit.

[60] The RPD did not discount the affidavit solely because it was unable to cross-examine the affiant. Importantly, it noted a discrepancy in the appellant's residence as described in the affidavit and found that it could not put this concern to the affiant or seek any clarification on this issue from him. Under the circumstances, the RPD did not err in discounting the affidavit. The RPD could not have considered the affidavit to be trustworthy if it contradicted the appellant's testimony about his place of residence.

[References omitted.]

[79] As clearly stated, the discrepancy was the different description of the location of Mugambo. Mr. Abdirisak Muse Hassan had said in an affidavit that he was a lifelong friend of the Applicant as they grew up together in a village called Mugambo and that the Applicant and his family had lived in Kismayo. The Applicant, on the other hand, said that Mugambo was in the Jamaame District and a mere ten minute walk from Jamaame while Kismayo was about a one to two-hour drive away.

[80] The RPD was not able to resolve this discrepancy because the Applicant said he would be calling Mr. Abdirisak Muse Hassan as a witness by teleconference during the hearing. Multiple attempts were made to reach him by phone, but he did not answer. As such, the RPD was unable to cross-examine him on the discrepancy and on why he had said that the Applicant lived in Kismayo rather than the Jamaame District.

[81] In the absence of an explanation from Mr. Abdirisak Muse Hassan, the Applicant now denies there was any discrepancy and that, in any event, the location of his residence in Somalia is confirmed by Ms. Barre's affidavit that was new evidence before the RAD. Ms. Barre's affidavit reads in full as follows:

> I, Amiira Yossuf Barre, of the City of Winnipeg, in the Province of Manitoba, MAKE OATH AND SAY:
>
> 1. I was accepted as a Convention refugee on May 12, 2017, but I do not yet have my permanent residence. I am a citizen of Somalia. I knew Osman Ali Abdi in Somalia and as such have knowledge of the matters herein deposed. Attached to this my affidavit and marked as Exhibit "A" is my refugee identity document and Notice of Decision of my refugee case.
>
> 2. I first met Osman Ali Abdi in 2002 in Jamaame as he was a friend of my brother, Abdulaziz. He lived in Mugambo village, which is on the outskirts of Kismayo. He would come to Jamaame

> to play soccer with my brother about 3-4 times a month. He would frequently come to our home afterwards for a visit and refreshments. Although I am about three years younger than Osman, he would still stop and chat with me. When I grew older, I would serve them food and drink. The last time I saw Osman was in early 2007. After that, I heard that he had fled Somalia.
>
> 3. Osman would keep in touch by phone during the years that he was in Kenya and South Africa. Whenever he would call he would speak with my brother and with me. The last time I heard from him was in 2014. After that we lost communication.
>
> 4. My brother fled Somalia in 2014 and went to Ethiopia. I do not have contact with him. I fled Somalia in 2015 and came to Canada on March 14, 2017, and live in Winnipeg, Manitoba.
>
> 5. On November 10, 2017, I went to eat at the only Somali restaurant in Winnipeg and when I walked in I saw Osman Ali Abdi sitting at one of the tables. We immediately recognized each other and were so overjoyed to see one another.
>
> 6. I can confirm without hesitation that Osman Ali Abdi is a citizen of Somali, that he is a member of the Dir clan and that he was living in Mugambo village, Somalia between 2002 to 2007.

[82] The RAD’s treatment of this affidavit is as follows:

> [61] In my own independent assessment, I have considered Ms. Barre’s affidavit but find that its contents do not overcome the inconsistency in Mr. Hassan’s affidavit. Ms. Barre describes Mugambo village as on the “outskirts” of Kismayo.” This falls somewhat closer to the appellant’s testimony that it was one or two hours away from Kismayo, but does not cure the inconsistency. Mr. Hassan’s affidavit clearly states that the appellant moved to and lived in Kismayo. Even if Mr. Hassan had intended to refer to the district of Kismayo, this remains an entirely different district from the Jamaame district, where the appellant claims to have lived.

[83] The RAD also commented that Ms. Barre's affidavit could only prove, at the very most, that the Applicant was in Somalia at a certain time. In other words, it was not sufficient to establish that he was a Somali national:

> [84] The remaining question is what influence the affidavit from Ms. Barre has on the overall determination on the appellant's identity. In the RAD's view, to date, this is the strongest evidence provided by the appellant of his identity. If believed, this affidavit might be capable of actually placing the appellant in Somalia during a particular period of time.
>
> [85] The key problem here is around the sufficiency of evidence. Where, as here, the RPD drew a number of valid negative inferences and went on to correctly g[i]ve little to no weight to the appellant's identity evidence, an affidavit from Ms. Barre will not be sufficient to tip the balance of evidence. As noted above, the reliability of this evidence is in question given Ms. Barre's age when she last saw the appellant in Somalia, their relatively loose association with each other in Somalia, and the lack of other evidence to corroborate their intersecting residential history in the same geographical area. Affidavit evidence from an individual who was only 14 years old when she last saw the appellant in Somalia is not sufficient to establish the appellant's national and personal identity.

[84] Even taking into account the difficulties that claimants have in establishing their identities because of the unavailability of government or official documents in Somalia, I do not think it can be said that the RAD was unreasonable in finding that there was a discrepancy on this issue in the Applicant's own evidence, and that this particular discrepancy was not resolved by Ms. Barre's affidavit. Indeed, the affidavit does not in any event establish that he is a Somali national, although I can see that taken in conjunction with other evidence it could give some credence to the Applicant's claims to be a Somali national. However, the Decision as a whole makes clear that the RAD was well aware of this because it conducted a thorough investigation of the Applicant's other evidence and considered it on a cumulative basis to see whether it

supported the Applicant's identity claims. In the end, this is a matter of the weight given to certain pieces of evidence and their cumulative significance. There is certainly room for disagreement over these matters but, provided the RAD considers the evidence and gives cogent reasons for its conclusions, the Court cannot interfere. See *Vavilov*, at paras 83-87 & 125-126 and *Gonzalez Zuluaga v Canada (Citizenship and Immigration)*, 2017 FC 1105 at para 10.

(2) Sponsorship Forms and Photographs

[85] The Applicant provided sponsorship forms and two photographs of the Applicant and Mr. Abdirisak Muse Hassan together. This evidence was intended to confirm the Applicant's residential information.

[86] The RAD admitted the forms and photographs as new evidence but gave them little weight in resolving the residential problem.

[87] The Applicant now says that the RAD acted unreasonably in this regard because it failed to take a contextual approach and consider the evidence in its totality. In particular, the Applicant says that the RAD failed to consider the photos and forms together with the Hassan and Barre affidavits, as well as the Applicant's own evidence on his residence in Somalia.

[88] While I agree with the Applicant that it would be unreasonable to consider this kind of evidence in isolation, a simple reading of the Decision shows that this did not occur. After discussing the residential discrepancies between the Applicant's own evidence and Mr. Abdirisak Muse Hassan's evidence, the RAD then goes on to consider the Barre affidavit

and the sponsorship forms as well as the photographs to see if, when considered together, the residential discrepancy can be resolved. This is seen at paras 61-63 of the Decision:

> [61] In my own independent assessment, I have considered Ms. Barre's affidavit but find that its contents do not overcome the inconsistency in Mr. Hassan's affidavit. Ms. Barre describes Mugambo village as on the "outskirts" of Kismayo." This falls somewhat closer to the appellant's testimony that it was one or two hours away from Kismayo, but does not cure the inconsistency. Mr. Hassan's affidavit clearly states that the appellant moved to and lived in Kismayo. Even if Mr. Hassan had intended to refer to the district of Kismayo, this remains an entirely different district from the Jamaame district, where the appellant claims to have lived.
>
> [62] I have also considered Mr. Hassan's sponsorship forms and photographs in my own assessment of the weight to be given to Mr. Hassan's affidavit. However, I find that they have very little probative value. Although the RPD also discounted the affidavit because of the absence of the affiant's immigration sponsorship forms, in my view the absence of these forms is inconsequential. The RPD merely requested these documents in an effort to ascertain whether the appellant and his witness had provided a consistent account of their residential history in the Jamaame district. The sponsorship forms submitted on appeal do not assist in verifying this information. The application is incomplete. Only the sponsor forms were submitted, and all of the applicant's forms are missing. Mr. Hassan's residential history is not set out in any of the forms. Though the appellant argues that this is due to the fact that sponsorship forms are different from refugee forms, I am not at all persuaded by this. It is inconceivable that a background information form would not have been submitted by Mr. Hassan in his immigration application, as he would have needed to be screened for his admissibility to Canada. Surely, his personal and residential history would have been included as part of that screening. Given the lack of any residential history in the sponsorship forms, the forms have no probative value in establishing that the affiant and the appellant resided in the same area in Somalia.
>
> [63] Lastly, the appellant submits photographs depicting him and Mr. Hassan together. These photographs have very little probative value. Contrary to the appellant's arguments, they do not establish that the appellant and his witness knew each other in Somalia. They merely depict the appellant and his witness

> together. There is no indication as to when or where these photographs were taken.

[89] A reading of these paragraphs suggests to me that, in assessing the weight that should be given to the sponsorship forms and the photographs in resolving the residential discrepancy, the RAD took a contextual approach and did not simply review this evidence in isolation.

(3) The Letter of Ms. Faiza Abdulkadir

[90] In written submissions, the Applicant complains as follows about the RAD's treatment of this evidence:

> 34. The Applicant provided an affidavit from Faiza Abdulkadir for the purpose of establishing his identity. Yet, the RPD panel gave no weight to the affidavit because it said that the affidavit did not resolve the issue of whether the Applicant's US claim had been denied or whether he had left before completing the claim. The RAD upheld this finding. It is submitted that this is an error. The affidavit provided detailed information about the Applicant's identity. That is what was at issue. Yet, the panel refused to consider it on this basis due to another issue. The Applicant provided this affidavit as a means to establishing his identity and not about whether he had completed his US claim.
>
> 35. Furthermore, the panel gave no weight to the affidavit because the witness was not called to testify via telephone. Given the exaggerated and unfounded suspicions of the panel, it is submitted that even if the witness had been available by phone, this panel would have disbelieved that it was her on the other end.

[91] This is not an accurate description of the treatment of this evidence. First of all, this letter was not an affidavit (it was a notarized letter) and it was not rejected simply because the author was not available for cross-examination. In addition, the RAD does consider the value of this evidence in establishing the Applicant's identity. The letter reads as follows:

October 10th 2017

To Whom It May Concern:

My name is Faiza Abdulkadir, I am the cousin of Osman Ali Abdi, and our mothers are first cousins. Last year when my cousin was release on parole he lived with me a 6369 Sain Johns Drive, Eden Prairie Minnesota 55346, USA. I helped him as much I could.

Disclosed is a copy of my us passport!

[Errors in original.]

[92] The RAD's treatment of this letter is as follows:

> [67] I find that the RPD did not err in its treatment of this document. The RPD considered whether this letter was capable of speaking to the issue of whether or not the appellant's U.S. asylum claim had been denied. It found that it was not responsive to that issue, but that it merely noted that the author had hosted the appellant at her home alter he was released from detention. Importantly, the RPD noted that the letter was vague and that the author was not made available to be called as a witness by teleconference. **Indeed, the purpose of the letter is not clear. If it was meant to speak to the appellant's identity, it does a rather poor job of this. It merely states the author's name, the appellant's name, and that their mothers are first cousins. It does not indicate anything about the author's knowledge of whether the appellant is even a citizen of Somalia, where the appellant has lived or whether he ever lived in Somalia, whether the two ever saw each other in Somalia, nor does it mention any of their mutual family members' names.**
>
> [68] In addition, I note that no original copy of this notarized letter was even presented to the RPD. During the hearing, counsel states that this letter was sent by email. This is not reasonable. Rule 42 of the *Refugee Protection Division Rules* specifically requires claimants to provide original documents at least by the outset of their hearing. No reasonable explanation was presented for the absence of the original notarized letter, even though its author resides in the United States.
>
> [69] The RPD cites the fact that the author of the letter was not called as a witness by teleconference, but this was not an error. The onus rests on the appellant to establish his identity. The fact

> remains that a detailed affidavit, with its author available for cross-examination, carries far greater weight than one that is lacking in detail and where its author's credibility cannot be tested. Where, as here, the letter has very little detail, where no original has been provided, and where the contents of the letter could not be tested, it was not an error for the RPD to discount the evidence. In my own assessment, the cousin's letter carries only little weight.
>
> [Emphasis added.]

[93] There is no substance to the Applicant's complaints about the treatment of this evidence. The fact that the Applicant and Ms. Faiza Abdulkadir are cousins does not support the claim that the Applicant is a Somali national.

(4) Affidavit of Mr. Abdirahaman Omar Hassan

[94] In detailed written submissions, the Applicant complains about the RAD's assessment of Mr. Abdirahaman Omar Hassan's affidavit as follows:

> 37. The RPD panel dealt with the affidavit of Abdirahman Omar Hassan in one paragraph and gave it low evidentiary weight because he did not know the Applicant in Somalia. They had met and knew one another in South Africa. The finding was upheld by the RAD.
>
> 38. It is submitted that this is an error. The affidavit was tendered to establish the identity of the Applicant. The witness confirms that he knew the Applicant in South Africa and confirms his name and that he is a national of Somalia. It is noteworthy that the affiant is also a Somali, was sponsored to Canada, states that he knew the cousin of the Applicant who was slain in South Africa in xenophobic violence and even helped to arrange the funeral. It is submitted that the affiant, a Somali, would be uniquely positioned to assess the claim of an associate to being a Somali as he can assess the language skills, the geographic knowledge and the cultural knowledge.
>
> 39. Furthermore, the RPD panel accepted that the Appellant had been in South Africa and accepted as a refugee but ignored

> that the South African government had accepted his identity. This too is an unreasonable finding. Yet, the RAD panel reversed this factual finding and stated that he had no documents to show that South Africa accepted his identity or that he was a refugee. Given this reversal, it is submitted that natural justice would have required the RAD to provide the Applicant with an opportunity to respond to these new findings.

[95] Apart from the natural justice issues, which I have addressed above, the Applicant is simply disagreeing with the RAD about the weight that should have been given to this evidence in establishing his identity. However, as the Decision reveals, the Applicant does not really engage with the RAD's reasons, notably at paras 70-74:

> [70] Another piece of evidence was an affidavit from Abdirahaman Omar Hassan, who claims to have met the appellant in South Africa in 2012. The RPD assigned low weight to this document, and I agree with this assessment.
>
> [71] The appellant argues that the RPD erred in giving this affidavit little weight. He argues that since the affiant is also Somali, he would be uniquely positioned to judge whether the appellant is Somali, through an assessment of his language skills, his geographic knowledge, and his cultural knowledge. The appellant also submits that the RPD failed to take into account the fact that the appellant had been accepted as a refugee in South Africa and that the South African government had accepted his identity.
>
> [72] I disagree with the appellant's argument. The affidavit does not indicate that the affiant is in a position to reliably assess the appellant's nationality. In addition, contrary to the appellant's arguments, the affidavit says nothing of the affiant's assessment of the appellant's knowledge of Somali geography, culture, or language skills. Even so, it is important to consider that there are significant populations of ethnic Somalis in many parts of east Africa, including Ethiopia, Kenya, and Djibouti. An individual's knowledge of Somali culture and language may be reliable indicators of ethnicity, but as to the appellant's *nationality*, they are not determinative.
>
> [73] The affiant states that the appellant is a citizen of Somalia with no citizenship in any other country, however it is difficult to

> understand how the affiant could attest to these facts if he only met the appellant in South Africa in 2012. He cannot speak to whether or when or where the appellant lived in Somalia. The RPD's reasons for discounting this evidence are valid. I too give this affidavit little weight.
>
> [74] Although the appellant also argues that his acceptance as a refugee in South Africa should count for something, I am not persuaded by this argument. There is no evidence to establish that the South African government accepted his identity. Despite supposedly being granted temporary refugee status in South Africa, which he was forced to renew on a regular basis, the appellant has not provided any status documents from South Africa that corroborate his allegation that he was accepted as a refugee there. Absent any corroboration, the RPD was not obliged to accept that the appellant had been accepted as a refugee in South Africa. The argument is without merit.
>
> [Emphasis in original.]

[96] The affiant in this case does not say that the Applicant was accepted as a refugee in South Africa. It merely says he was a "refugee claimant." Consequently, the RAD was obliged to look for actual acceptance. I can see that this affidavit has probative value in establishing the Applicant's ethnicity but, for reasons given by the RAD, this does not establish the Applicant's Somali nationality, which was the paramount issue before the RAD.

(5) The USA Asylum Claim

[97] The Applicant made a previous asylum claim in the USA before coming to Canada. In his Basis of Claim form, he stated that his USA claim had been denied, but later amended it to say that he had abandoned his USA claim. Significantly, he says that his identity was accepted by the USA and, for various reasons, it was unreasonable for the RAD not to accept this. More specifically, he argues that:

(a) The USA asylum claim was not a significant event that gave rise to the Applicant's claim in Canada but it is rather the events in Somalia which he is fleeing. The Applicant holds that the RAD's erroneous findings in relation to the USA claim are what led to the RAD's rejection of his evidence going to his Somali nationality;

(b) The USA authorities accepted his identity as a Somali national but the RAD erroneously gave no weight to this on the basis that he did not provide proof of his abandonment of the USA claim, despite the fact that there is no way to prove something he did not do;

(c) The RAD unreasonably concluded that he was lying when he said he had abandoned his USA claim and that he was hiding something significant in his USA claim documents;

(d) The USA claim documents were before the RAD and they corroborate the story he told USA authorities about the reason for his flight from Somalia. The Applicant claims that this was ignored by the RAD; and

(e) As well as showing that the USA authorities accepted his identity as a Somali national, they also show that his "biometrics" were taken by Immigration and Customs Enforcement in Panama in November 2015, which corroborates his travel to the USA. He states that this was ignored by the RAD.

[98] In all, the Applicant is saying that the RAD "relied on the US claim documents to impeach the Applicant but ignored the portions of the documents that corroborated the narrative, travel route and identity."

[99] As the Decision makes clear, the various issues arising from the Applicant's USA asylum claim were not peripheral to his claim in Canada, and the Applicant does not address the many inconsistencies in his evidence that undermined his credibility and the evidence that he was a Somali national and the reasons he gave for fleeing that country. The Applicant is simply asking the Court to turn a blind eye to these matters and accept his assertion that his USA claim established his identity as a Somali national who requires refugee protection in Canada.

[100] The sheer inadequacy of this allegation of unreasonableness is best appreciated by what the RAD had to say on this issue:

> [33] The appellant argues that his U.S. asylum claim was not a significant event for his Canadian claim, and that in any event, he corrected the information in his form. He relies on jurisprudence on BOC Form omissions to argue that the RPD erred in drawing a negative inference. The appellant submits that there is no way to prove that his claim was abandoned and not denied, since he simply left the U.S. without completing his claim. The appellant also argues that the RPD erred by giving no weight to the fact that his identity had been accepted by authorities in the United States, and by ignoring the U.S. claim documents that provide a consistent account of the appellant's narrative, travel route, and identity.
>
> [34] I do not agree with the appellant's arguments. The jurisprudence relied upon by the appellant is entirely distinguishable, as it relates to the omission of elaborative details from a refugee claimant's narrative. The omission of a Christian convert's date of baptism, for instance, might not be material under some circumstances, and it may well be difficult for claimants to anticipate what might be considered material by the RPD. However, in the present case, the Basis of Claim Form *specifically* asks claimants to disclose whether they have made previous asylum claims, and to disclose the results of those claims.
>
> [35] Here, the appellant did not simply omit a detail from his forms, but he provided false information. I agree with the RPD that this was not an innocent error, given the repetition of the error, the timing of its correction, and the appellant's evolving testimony around the issue during the hearing.

[36] The appellant completed his Basis of Claim Form with the assistance of an experienced refugee lawyer as well as a Somali interpreter. The appellant signed the form, declaring it to be complete, true, and correct, and declaring that the entire contents had been interpreted to him. The Somali interpreter too signed a declaration, indicating that he had accurately interpreted the entire form and attached documents to the appellant, and that the appellant had assured him that he understood the entire contents as interpreted. Despite this, question 4 of the Basis of Claim Form indicates that the appellant's U.S. asylum claim was denied. The written narrative also states:

> I was able to find an agent to assist me in travelling to the USA. I made a refugee claim there after arriving on January 6, 2016. My claim was denied and I later crossed into Canada on foot and made an inland refugee claim in Manitoba.

[37] In addition, the appellant's Schedule A Form states:

> I made previous claim in USA. I was ordered to be deported to Somalia.

[38] The Schedule 12 Form indicates that the appellant's Schedule A Form was completed with the assistance of a volunteer in Winnipeg. The Schedule A Form was signed by the appellant on November 21, 2016, where he declared that the contents were truthful, complete, and correct.

[39] Despite the supposed error in these forms, the appellant did not submit an amendment to the Basis of Claim Form until October 16, 2017, many months after the forms were completed, and only *after* the RPD requested an audio recording of the appellant's U.S. immigration court decision.

[40] In addition, having reviewed the RPD hearing record, I agree that the appellant provided evolving and contradictory testimony on this issue. Initially the appellant testified that he did not have a hearing in the United States, and that he departed after learning from his U.S. lawyer that he was expected to obtain a Somali passport in order to facilitate his departure in the event of a negative result. When the RPD confronted him with the information in his initial Basis of Claim Form about having been denied refugee status in the U.S., the appellant denied having written this. He even denied having had interpretation for his Basis of Claim Form, only changing his testimony after the interpreter's declaration was shown to him. He then blamed the discrepancy in

the Basis of Claim Form on possible mistakes in his U.S. release papers. He proceeded to contradict his earlier testimony, saying that he actually did receive a deportation order in the United States. When this contradiction was put to the appellant, he backtracked on his answer. He ultimately gave the explanation that he had failed to amend his Basis of Claim Form earlier because he had a knee injury.

[41] Adding to this confusion is the appellant's explanation for supposedly abandoning his U.S. asylum claim. According to his testimony, the appellant decided to abandon his U.S. claim because his lawyer instructed him to obtain a passport, which would facilitate his departure to Somalia in the event of a negative decision. Despite clarifying this matter with his lawyer – that he could only be removed in the event of a negative decision – the appellant feared that he might be caught at any time and removed to Somalia. The RPD was skeptical of this explanation, and rejected it as it found that the appellant's fear of deportation lacked any objective support. The RPD considered that the United States has a functioning inland asylum system and that there is no evidence to indicate that claimants are being deported from the United States before receiving a determination on their claims. I agree with the RPD that this explanation is difficult to understand. The appellant left South Africa with the intention of making an asylum claim in the United States. He was represented by a lawyer in the United States, who did not actually advise him that he could be deported prior to a determination on his claim. He had already initiated a claim and his only government-issued identity document, his birth certificate, was in the possession of U.S. asylum authorities. I find it difficult to appreciate why the appellant would abandon his plans in the United States for an unfamiliar asylum process in Canada based on unsupported fears, and leaving behind his only official identity document, especially when his fears were not at all supported by legal advice from his own lawyer.

[42] I have considered the above factors, namely the inconsistent information in the appellant's forms, the timing of the amendment to his Basis of Claim Form, his evolving testimony, and his nonsensical explanation for his decision to supposedly abandon his asylum claim. I agree with the RPD that the appellant's original statement — that his claim was denied is the most likely scenario. I too determine that the appellant merely changed this information in an effort to withhold information about the proceedings that took place in the United States. The withholding of this information caused the RPD to place no weight on the appellant's birth certificate photocopy, and I agree with the

> weight assigned to this document, especially given that the RPD did not have the opportunity to examine the original and as the appellant did not demonstrate any efforts to attempt to regain possession of the document.
>
> [43] In regard to the U.S. asylum documents and what weight they carry, I do not agree with the appellant's argument.
>
> [44] The appellant completed a credible fear interview in the United States. His allegations there were the same as alleged here. It appears that an asylum officer in the United States concluded through the credible fear interview that the appellant's identity had been determined within a reasonable degree of certainty. However, to be clear, the determination indicates that the appellant had no government-issued identification, and that the determination was reached on the basis of the appellant's statements and some unspecified other documents. It indicates that the appellant referred to having some documents issued in South Africa containing some of his personal information, but it is unclear as to what documents these were and whether they were presented to U.S. asylum authorities.
>
> [45] Regardless of whether the RPD was wrong in failing to mention this information, where, as here, there is so little information and evidence to support the U.S. identity determination, and where the appellant has been withholding information about his U.S. asylum proceedings, I would not place significant weight on the identity determination that was made at the credible fear interview.
>
> [Emphasis in original, references omitted.]

[101] In this application, the Applicant has not even attempted to challenge the real reasons behind the RAD's treatment of his USA claim.

(6) Error in Date of Birth

[102] The Applicant says that the RAD was unreasonable for faulting him for what was a minor typographical error in his date of birth stated on various forms.

[103] When examined out of context, the difference between January 11, 1990, and January 1, 1990, certainly looks like a typographical error, but the Applicant does not address the RAD's reasons for not being able to accept it as such:

> [48] The difference in the dates is relatively small and I might have been able to accept the difference as an innocent typographical error, were it not for the fact that it is repeated throughout many of the appellant's forms and even in the appellant's U.S. asylum forms. The appellant's BOC Form, his Generic Application Form, his Schedule A Form, and his Schedule 12 form all identify the appellant's date of birth as January 1, 1990.
>
> [49] This is despite the fact that the photocopy of the appellant's birth certificate indicates that he was born on January 11, 1990, and despite the fact that the appellant apparently committed the very same error in the United States. In the U.S. form, he initially listed his date of birth as January 1, 1990, and amended it to January 11, 1990, in conformity with his birth certificate. The U.S. form indicates that the date of birth was changed after the appellant explained that the error was due to misinterpretation.
>
> [50] Where the appellant had already committed this error in the past, and had to amend his date of birth during his U.S. proceedings, I too find it difficult to accept that the appellant simply again happened to provide the wrong date of birth in his Canadian forms due to typographical errors. I agree with the RPD that this casts doubt on the appellant's true date of birth.
>
> [References omitted.]

[104] The Applicant did not explain why he made the same mistake again. Nevertheless, in my view, this matter had a very minor impact on the overall Decision, which deals with the Applicant's identity. It is simply another mystery that the Applicant could not satisfactorily explain.

(7) Letters from Somali Community Organizations in Canada

[105] The Applicant says that the RAD was unreasonable in its refusal to accept the opinion of two respected Somali community organizations in Canada (Dejinta Beesha and Midaynta) who are frequently tasked with assessing Somali identity and who, independently of each other, and based upon extensive interviews, confirmed his personal, clan, and national identity.

[106] In essence, the RAD found that these letters were not sufficient to overcome the numerous other credibility concerns of the RAD, or to establish the Applicant's personal and Somali nationality:

> [78] In my view, there is no question as to whether the appellant is an ethnic Somali. He speaks the Somali language fluently, has some knowledge of his clan lineage, and seems to have convinced other Somalis that he is knowledgeable about Somali culture and traditions. Ethnicity, however, is not determinative of nationality. As explained, there are significant populations of ethnic Somalis in other countries who are not Somali nationals. It would not be unusual for ethnic Somalis to have fluency in the Somali language, to be familiar with Somali culture and history, to be knowledgeable about their clan lineage, and to even have some degree of geographical knowledge about Somalia.
>
> [79] With this context, it would be important to see what specific questions were asked of the appellant, in order to determine what value the questions had in assisting the determination of the appellant's nationality, rather than merely his ethnicity. The Dejinta Beesha letter vaguely states that the community verification assessment involves questions around background, history, heritage, geography, "sociopolitical", clan lineage, and culture, all conducted in the Somali language. Without further detail, it is difficult to ascertain the depth of the appellant's knowledge and what relevance these questions had in determining his nationality.
>
> [80] The Midaynta letter is somewhat more detailed. It describes the appellant's statements about his residence in Somalia. The appellant stated that he was raised in Mugambo, a city in the

> Lower Juba, which he described as a rural area. He correctly identified the Juba River as a landmark. However, this very basic description does not warrant giving this assessment anything more than little weight.
>
> [81] Finally, I also consider that these organizations were only acquainted with the appellant in Canada for the purposes of his refugee claim. They cannot provide any probative evidence concerning the appellant's personal identity, such as his name, date of birth, or family information.
>
> [82] I therefore agree that the community organization letters carry little weight in establishing the appellant's nationality and personal identity.
>
> [References omitted.]

[107] In the end, the Applicant is simply saying that these letters should have been given more weight when deciding his personal identity and Somali nationality. His Somali ethnicity is not in dispute.

[108] The RAD gave full reasons why, in the context of the evidence as a whole, these letters could not be given the weight the Applicant says they should have been given. The RAD's reasons are intelligible and cannot be said to be unreasonable in the full context of this claim. Even if I were to disagree with the RAD's assessment, I cannot interfere with its conclusions.

IX. CONCLUSIONS

[109] I can see that there were certainly some factors that were at play in this claim and Decision to support the Applicant's case. He is, after all, an ethnic Somali and even the RAD acknowledged that his evidence is not all negative. For example, in relation to Ms. Barre's affidavit, the RAD conceded that:

> [84] The remaining question is what influence the affidavit from Ms. Barre has on the overall determination on the appellant's identity. In the RAD's view, to date, this is the strongest evidence provided by the appellant of his identity. If believed, this affidavit might be capable of actually placing the appellant in Somalia during a particular period of time.

[110] Nevertheless, as the RAD made clear, the essential problem was the sufficiency and reliability of the evidence as a whole.

[111] In his own submissions before me, the Applicant emphasizes that each piece of evidence cannot be analyzed in isolation and, quoting Justice Harrington in *Andreoli v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1111 at para 16, a full contextual approach is necessary.

[112] However, this is precisely the approach the RAD took, which is why evidence that could have helped the Applicant to establish his personal and national identities could not be viewed in isolation and had to be assessed in conjunction with other evidence that did not assist the Applicant.

[113] The Decision is detailed and meticulous. It is possible to disagree with some of the RAD's findings on weight, but this is not a ground for reviewable error. Overall, the Decision is reasonable and the Court cannot interfere.

X. CERTIFICATION

[114] The parties agree there is no question for certification and the Court concurs.

JUDGMENT IN IMM-1949-19

THIS COURT'S JUDGMENT is that

1. The application is dismissed.
2. There is no question for certification.

"James Russell"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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