Federal Court Cour fédérale

**Date: 20240422**

**Docket: IMM-3790-23**
**IMM-3805-23**

**Citation: 2024 FC 607**

**Ottawa, Ontario, April 22, 2024**

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

**Docket: IMM-3790-23**

**BETWEEN:**

**KAIF HOLIF ALI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**Docket: IMM-3805-23**

**AND BETWEEN:**

**SAGAL HOLIF ALI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Court heard these two applications together and one set of reasons will be issued and filed in each Court file.

[2] The Applicants, sisters and citizens of Somalia, seek judicial review of identical decisions made by an officer of Immigration, Refugees and Citizenship Canada, dated January 27, 2023, denying their pre-removal risk assessment [PRRA] applications. For the reasons that follow, I will dismiss these applications.

## I. Background

[3] The Applicants arrived in Canada in March 2018, and sought refugee protection shortly thereafter.

[4] The Refugee Protection Division [RPD] rejected their claim on March 27, 2019. The determinative issues were identity and credibility; namely, the Applicants were unable to establish their identity as Somali nationals and there was a lack of credible evidence regarding their personal identities and how they entered Canada. On September 4, 2020, the Refugee Appeal Division [RAD] upheld the RPD's decision for largely the same reasons. The Applicants each subsequently applied for a PRRA. On January 27, 2023, the officer refused the Applicants' PRRA applications.

[5] In their applications, the Applicants alleged that they would be targeted by the Al Shabaab, or a rival clan, should they return to Somalia. They further alleged that they would be

at risk of persecution for being from a minority clan and being women without male protection. Finally, they alleged that they would be at risk for being seen as anti-Islamic and spies as returning from the West.

[6] The officer first noted that, since both the RPD and RAD did not assess any evidence outside of the Applicants' identities, the officer would consider all the evidence submitted in their PRRA applications as new evidence.

[7] The officer was satisfied that the Applicants are Somali nationals. The decisions on the PRRA applications turned on finding that the Applicants failed to provide sufficient evidence to demonstrate that they are persons in need of protection within the meaning of sections 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act].

## II. Issue and Standard of Review

[8] The sole issue for determination in these applications is whether the officer's decisions were reasonable.

[9] The decisions are reviewable on the standard of reasonableness, as articulated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. Reasonableness is a deferential, but robust, standard of review: *Vavilov* at paras 12–13. Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker: *Vavilov* at para 125. Instead, it is the reviewing court's task to assess whether

the decision as a whole is reasonable; that is, is it one that is based on an internally coherent and rational chain of analysis, and is it justified in relation to the facts and law that constrain the decision-maker: *Vavilov* at para 85.

## III. Analysis

[10] The Applicants submit that the decisions are unreasonable. They advance several submissions to this end, which I broadly characterize as follows: (1) that the officer erred in assessing state protection in Somalia; and (2) that the officer unreasonably assessed the evidence. I will deal with each in turn.

### A. *State Protection*

[11] The Applicants submit that the officer erred when assessing state protection in concluding that there are "women's groups, civil organizations and healthcare workers" available to assist them in Somalia. They point to several decisions of this Court that establish that the officer must only evaluate the availability and effectiveness of *police* protection in determining if a particular country possesses adequate state protection: *Csoka v Canada (Citizenship and Immigration)*, 2016 FC 1220 at para 19; *Malik v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 453 at para 21; *Flores v Canada (Citizenship and Immigration)*, 2013 FC 938 at para 38; *Hindawi v Canada (Citizenship and Immigration)*, 2015 FC 589 at para 27.

[12] The Applicants further submit that the officer erred in failing to assess the operational adequacy of state protection in Somalia: *Aguirre v Canada (Citizenship and Immigration)*, 2010

FC 916 at para 20; *Campos Quevedo v Canada (Citizenship and Immigration)*, 2011 FC 297 at para 11; *Kotai v Canada (Citizenship and Immigration)*, 2020 FC 233 at para 34.

[13] The Respondent submits that these submissions on state protection should be rejected because the applications were not denied due to a failure to rebut the presumption of state protection; rather, they were denied because the Applicants did not establish they had risk profiles warranting a positive decision.

[14] I agree. The officer did not conduct a state protection analysis, nor was one required in the circumstances. Although not cited by the parties, I note that this Court has held that officers are not required to conduct a state protection analysis where risk is not established: *Gaspar v Canada (Citizenship and Immigration)*, 2018 FC 320 at para 29, citing *Mallampally v Canada (Citizenship and Immigration)*, 2012 FC 267 at para 41 and *Hernandez v Canada (Citizenship and Immigration)*, 2017 FC 659 at para 14.

[15] As the Respondent submits, the officer denied the Applicants' PRRA applications based on finding that the Applicants would not be at risk of persecution in Somalia. The officer's reference to the availability of independent bodies to provide ongoing support to the Applicants was in response to the Applicants' submission that they fear returning to Somalia because they are women with no male protection; it was not a conclusion on the adequacy of state protection.

B. *The Evidence*

[16] The Applicants' other submissions relate to the officer's treatment of their evidence. They submit that the officer unreasonably assessed the evidence related to their membership in a

minority clan in Somalia, the treatment of women in Somalia with no male protection, the availability of such male protection, the risk of being perceived as Westernized, and the lack of ongoing pursuit.

[17] The Applicants further submit that the officer erred in assessing their supporting documents. Particularly, they say that the officer erroneously assigned them little weight, relied on minor inconsistencies, assessed documents for what they did not say, and rejected their PRRA applications solely for lack of corroborating evidence.

[18] The Respondent characterizes the Applicants' submissions on this point as an improper request for the Court to reweigh the evidence in a manner more favourable to them. It submits that the officer did not engage in a selective review of the evidence. Citing *Kakurova v Canada (Citizenship and Immigration)*, 2013 FC 929 at paragraph 18, the Respondent argues that an officer is not required to reference every point in the evidence that is contrary to its determinations.

[19] I am not persuaded that the officer undertook an unreasonable assessment of the evidence.

[20] While the officer drew some conclusions and findings of fact on which reasonable people may disagree, I find that the officer's reasons as a whole turned on finding insufficient evidence to corroborate the Applicants' claims. For example, while the Applicants take issue that the officer unreasonably assessed how belonging to a minority clan would affect their risk of

persecution, the officer's conclusion on that point turned, at least in part, on finding that the Applicants failed to establish that they even belonged to the minority clan:

> I acknowledge that minority clans in Somalia face a higher risk of danger and violence as opposed to members of majority clans as revealed by submissions by counsel as well as my own research. However, the applicants submitted insufficient evidence to corroborate the claim that they belong to the Horosame clan. I am aware that clan membership is not information that a person possess [*sic*] documentation for, however, the applicants did not submit any testimonies from friends or other clan members that could attest to their ties to the Horosame clan.

[21] Similarly, while the Applicants submit that the officer unreasonably assessed how being perceived as Westernized could affect their risk of persecution, the officer's primary concern was a lack of sufficient evidence demonstrating that the Applicants would be targeted on this basis:

> Counsel states that the applicants worked in Somalia at their family restaurant and were specifically targeted by Al Shabaab as being "Westernized". However, aside from the applicant's testimonies there is little corroborating evidence to support this claim.

[22] To the Applicants' argument that the officer failed to meaningfully address contradictory evidence, I find that the officer indeed considered the totality of the evidence but gave the contradictory evidence minimal weight. The Applicants' arguments to the contrary amount to a request for this Court to reweigh the evidence, which is not appropriate on applications for judicial review.

[23] It bears noting that the purpose of a PRRA is to ensure that persons are not returned to countries where they may be subject to real risk to life and safety, as defined under the Act. The officer was not required to determine that the Applicants had adequate male protection or would not be deemed as anti-Islamic or Westernized should they be returned to Somalia. The officer

was tasked to determine what risks the Applicants would face should they be returned to Somalia, in light of their submissions. The officer reasonably determined that the Applicants' evidence was insufficient to establish that they met the requirements for refugee protection under the Act.

[24] To be clear, the officer's reasons are not perfect. However, that is not the standard of review. Under *Vavilov* at paragraph 91, a decision-maker need "not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred." Instead, a decision is reasonable where it based on an internally coherent reasoning and justified in light of the legal and factual constraints that bear on it, including consideration of the totality of evidence. I find the decisions under review meet this bar.

## IV. Conclusion

[25] For the foregoing reasons, I dismiss these applications for judicial review. The parties raised no question for certification and I agree none arises.

**JUDGMENT in IMM-3790-23 and IMM-3805-23**

**THIS COURT'S JUDGMENT is that** these applications are dismissed and no question is certified.

"Russel W. Zinn"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-3790-23 and IMM-3805-23 |
| **STYLE OF CAUSE:** | KAIF HOLIF ALI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION; SAGAL HOLIF ALI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | TORONTO, ONTARIO |
| **DATE OF HEARING:** | MARCH 28, 2024 |
| **JUDGMENT AND REASONS:** | ZINN J. |
| **DATED:** | APRIL 22, 2024 |

**APPEARANCES:**

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| Jake Boughs | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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