

Federal Court



Cour fédérale

Date: 20191120

Docket: IMM-2033-19

Citation: 2019 FC 1470

Toronto, Ontario, November 20, 2019

PRESENT: Madam Justice Simpson

BETWEEN:

FAHMA ALI AHMED

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered orally from the Bench in Toronto, Ontario on November 18, 2019)

I. Proceeding

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board, dated February 28, 2019, in which a Panel Member [Member] denied the Applicant's refugee claim based on a finding that she had not established her identity as a citizen of Somalia [the Decision]. This application was brought

pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

II. Background

[2] The Applicant claims to be Fahma Ali Ahmed (Fahma Ahmed). She says that she is a citizen of Somalia who fears persecution at the hands of Al-Shabaab in that country. The issue is the Applicant's identity.

[3] The Applicant states that she escaped from Al-Shabaab in Somalia and fled to Kenya. She then used the services of smugglers to travel to Mozambique, Italy, Finland and eventually Canada, using at least three different false passports and three different identities.

[4] In Finland the Applicant made a Refugee Claim in the name of Fahma Ahmed which was rejected [the Finnish Decision]. The rejection was based on the Applicant's failure to establish her identity as Fahma Ahmed. This issue arose because by matching fingerprints taken in Finland to those taken during her visa application at the Italian Consulate in Mozambique [the Match], the Finnish authorities discovered that the European VIS – Visa Information System showed that the Applicant was actually Farhiya Isaac Dahir [Farhiya Dahir]. As well, it showed that the visa she applied for was a Schengen visa and that she used a Mozambique passport for the visa application. It gave Kenya as her place of birth and said she was a citizen of Mozambique. There was no documentary evidence to contradict this information. Accordingly, the Finnish authorities concluded that the Applicant was Farhiya Dahir and not Fahma Ahmed.

However, the Applicant disputed the Match saying that she did not have a Mozambique passport and that the visa she had applied for was only for Italy and was not a Schengen visa.

III. The Decision

[5] The RAD rejected the Applicant's evidence about not having a Mozambique passport and concluded that the evidence about the Match in the Finnish Decision was unlikely to be wrong. The fact that she disputed the Match and denied having a Mozambique passport gave the RAD serious concerns about the Applicant's credibility.

[6] The evidence before the RPD included a Somali passport which had not been before the Finnish authorities. However, the RPD concluded that it was not genuine because the stitching was irregular and a perforated passport number did not appear stamped through each page. The RAD accepted these concerns and also agreed with the RPD that there was no evidence to corroborate how the Somali passport reached the Applicant in Canada.

[7] The RAD rejected the Applicant's new evidence about her identity because it could have been adduced before the RPD and in my view, this was a proper application of section 110(4) of the IRPA.

[8] The RAD also concluded that the credibility concerns, which arose due to her disputing the Match, outweighed the limited evidence from the Applicant's uncles and the fact that she spoke the language of Somalia.

IV. Discussion

[9] The difficulty in this case was that there was no evidence to prove that the Applicant was Somali. Her Somali passport was a fake. The one witness (one of her uncles) who was called to testify, did not know her in Somalia. The second uncle's written evidence only said that he met her there in 2009 and said, as well, that her "origin" was Somali. This was vague evidence and did not rise to the level of clear evidence about her citizenship or place of birth that was needed.

V. Conclusion

[10] For all these reasons, the application will be dismissed.

VI. Certification

[11] No question was certified for appeal.

JUDGMENT in IMM-2033-19

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2033-19

STYLE OF CAUSE: FAHMA ALI AHMED v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 18, 2019

JUDGMENT AND REASONS: SIMPSON J.

DATED: NOVEMBER 20, 2019

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