Federal Court  Cour fédérale

Date: 20230330

Docket: IMM-5424-22

Citation: 2023 FC 444

Ottawa, Ontario, March 30, 2023

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

GETANEH EJIGU TAYE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision by an Immigration Officer in Nairobi, Kenya, dated May 30, 2022, to deny the Applicant's request for a permanent resident visa as a member of either the *Convention* refugee abroad class or Humanitarian-Protected Persons Abroad designated class due to concerns about credibility.

II. Facts

[2] The Applicant is a 46-year-old man of Ethiopian citizenship who applied to resettle in Canada as a member of the Convention refugee abroad class or as a member of the Humanitarian-protected persons abroad designated class. His narrative is as follows.

[3] Prior to his departure from Ethiopia, the Applicant had been involved in politics during the 2005 Ethiopian election as an electoral observer of the main opposition party, Coalition for Unity and Democracy [CUD]. The Applicant was approached by members of the ruling party to report on activities of the CUD, but refused to do so. As a result, the Applicant states he was arbitrarily detained in the Dedesa military camp between June 2005 and February 2006.

[4] Upon his release, he was once again asked by members of the ruling party to spy on the activities of another opposition party, which he refused. Ultimately, the Applicant went on to work as a truck driver until 2018 when he experienced the incident underlying his claim.

[5] On January 13, 2018, the Applicant gave a ride to two students. Upon arriving at a security checkpoint, the Applicant noticed police officers stationed at every vehicle and four more searching the cab of his truck. The students ended up being wanted by the police for their involvement in protests. The Applicant quickly fled the scene in a taxi. As he was leaving, the Applicant observed his assistant and the two students being arrested after he got away.

[6] I should add the Applicant had an oral hearing before the Officer. The Officer's several credibility related concerns were put to him one by one, and he testified in response. For example, the Applicant testified that his family is not in danger, are living in his home and are not experiencing any problems. The Officer dismissed the application on credibility grounds having rejected this and other elements of the Applicant's evidence and testimony.

III. Decision under review

[7] The Officer's decision consists of a refusal letter noting the Applicant was not credible and set out the Officer's grounds:

> After carefully assessing all factors relative to your application, I am not satisfied that you are a member of any of the classes prescribed because the explanations you provided as to why you were personally targeted and why you cannot return do not appear credible as specified below:
>
> > • Most of your family members have remained in Ethiopia, with good jobs, including your wife and children. You said your family is not in danger, they are living in your house, and that there are no problems there for them.
> >
> > • You picked up two boys in Tolay while driving home because they looked like students. You stated that you had never done this before, out of the 13 years you were a truck driver. The people you picked up ended up being students involved in the protests and were wanted by the police.
> >
> > • You managed to escape arrest, despite police officers being stationed at every vehicle around you, including four searching your own vehicle. You grabbed a taxi and fled the scene, unnoticed.
> >
> > • You were approached during the election in 2005 to be a spy for the opposition political party. After refusing you were put in prison and later released.

> Limited details and explanations to support the reason for arrest and you release were provided.

[8] The Officer's Global Case Management System [GCMS] notes are largely reproduced in the facts and reasons above.

IV. Issues

[9] The Applicant submits the following issues:

1) Was the Officer's decision reasonable?

2) Did the Officer err by failing to have regard to the Applicant's status as a UNHCR refugee or by failing to have regard to CIC Guideline OP 5?

[10] The Respondent submits in response that the Applicant has failed to establish a reviewable error.

V. Standard of Review

[11] The applicable standard of review is reasonableness. In *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, issued at the same time as the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the majority per Justice Rowe explains what is required for a reasonable decision, and what is required of a court reviewing on the reasonableness standard:

> [31] A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov*, at para. 85). Accordingly, when conducting

> reasonableness review "[a] reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at [the] conclusion" (*Vavilov*, at para. 84, quoting *Dunsmuir*, at para. 48). The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at para. 97, citing *Newfoundland Nurses*).
>
> [32] A reviewing court should consider whether the decision as a whole is reasonable: "what is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review" (*Vavilov*, at para. 90). The reviewing court must ask "whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov*, at para. 99, citing *Dunsmuir*, at paras. 47 and 74, and *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, [2012] 1 S.C.R. 5, at para. 13).
>
> [33] Under reasonableness review, "[t]he burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov*, at para. 100). The challenging party must satisfy the court "that any shortcomings or flaws relied on ... are sufficiently central or significant to render the decision unreasonable" (*Vavilov*, at para. 100).
>
> [Emphasis added]

[12] That said, the Supreme Court of Canada in *Vavilov* makes it clear the role of this Court is not to reweigh and reassess the evidence unless there are "exceptional circumstances". No such circumstances exist in the case at bar. The Supreme Court of Canada instructs as follows:

> [125] It is trite law that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *CHRC*, at para. 55; see also *Khosa*, at para. 64; *Dr. Q*, at paras. 41-42. Indeed, many of the same reasons that support an appellate court's deferring to a lower court's factual findings, including the need for judicial efficiency, the importance of preserving certainty and public

> confidence, and the relatively advantageous position of the first instance decision maker, apply equally in the context of judicial review: see *Housen*, at paras. 15-18; *Dr. Q*, at para. 38; *Dunsmuir*, at para. 53.
>
> [Emphasis added]

[13] In addition, the Federal Court of Appeal recently held in *Doyle v Canada (Attorney General)*, 2021 FCA 237 that the role of this Court is not to reweigh and reassess the evidence:

> [3] In doing that, the Federal Court was quite right. Under this legislative scheme, the administrative decision-maker, here the Director, alone considers the evidence, decides on issues of admissibility and weight, assesses whether inferences should be drawn, and makes a decision. In conducting reasonableness review of the Director's decision, the reviewing court, here the Federal Court, can interfere only where the Director has committed fundamental errors in fact-finding that undermine the acceptability of the decision. Reweighing and second-guessing the evidence is no part of its role. Sticking to its role, the Federal Court did not find any fundamental errors.
>
> [4] On appeal, in essence, the appellant invites us in his written and oral submissions to reweigh and second-guess the evidence. We decline the invitation.
>
> [Emphasis added]

[14] Because credibility is the central issue, I will follow what I consider constraining law as summarized in *Khakimov v Canada*, 2017 FC 18 starting at paragraph 23:

> …To begin with, the RPD has broad discretion to prefer certain evidence over other evidence and to determine the weight to be assigned to the evidence it accepts: *Medarovik v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 61 at para 16; *Pushpanathan v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 867 at para 68. The Federal Court of Appeal has stated that findings of fact and determinations of credibility fall within the heartland of the expertise of the RPD: *Giron v Canada (Minister of Employment and Immigration)* (1992), 143 NR 238 (FCA) [*Giron*]. The RPD is recognized to

> have expertise in assessing refugee claims and is authorized by statute to apply its specialized knowledge: *Chen v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 805 at para 10. And see *Siad v Canada (Secretary of State)*, [1997] 1 FC 608 at para 24 (FCA), where the Federal Court of Appeal said that the RPD:
>
> > … is uniquely situated to assess the credibility of a refugee claimant; credibility determinations, which lie within "the heartland of the discretion of triers of fact", are entitled to considerable deference upon judicial review and cannot be overturned unless they are perverse, capricious or made without regard to the evidence.
>
> [24] The RPD may make credibility findings based on implausibility, common sense and rationality, although adverse credibility findings "should not be based on a microscopic evaluation of issues peripheral or irrelevant to the case": *Haramichael v Canada (Minister of Citizenship and Immigration)*, 2016 FC 1197 at para 15, citing *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 at paras 10-11 [*Lubana*]; *Attakora v Canada (Minister of Employment and Immigration)*, [1989] FCJ No 444. The RPD may reject uncontradicted evidence if it "is not consistent with the probabilities affecting the case as a whole, or where inconsistencies are found in the evidence": *Lubana*, above at para 10. The RPD is also entitled to conclude that an applicant is not credible "because of implausibilities in his or her evidence as long as its inferences are not unreasonable and its reasons are set out in 'clear and unmistakable terms'": *Lubana*, above at para 9.

[15] The central role of the trier of fact in credibility determinations is reinforced by the Federal Court of Appeal's decision in *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93:

> [70] This also recognizes that <u>there may be cases where the RPD enjoys a meaningful advantage over the RAD in making findings of fact or mixed fact and law, because they require an assessment of the credibility or weight to be given to the oral evidence it hears.</u> It further indicates that although the RAD should sometimes exercise a degree of restraint before substituting its own determination, the issue of whether the circumstances warrant such

> restraint ought to be addressed on a case-by-case basis. In each case, the RAD ought to determine whether the RPD truly benefited from an advantageous position, and if so, whether the RAD can nevertheless make a final decision in respect of the refugee claim.
>
> [71] One can imagine many possible scenarios. For example, when the RPD finds a witness straightforward and credible, there is no issue of credibility *per se*. This will also be the case when the RAD is able to reach a conclusion on the claim, relying on the RPD's findings of fact regarding the relative weight of testimonies and their credibility or lack thereof.
>
> [Emphasis added]

[16] As did both the Applicant and Respondent, I also rely upon *Al Dya v Canada (MCI)*, 2020 FC 901 [*Dya*] a decision of Justice McHaffie, and a recent consideration of *Valtchev v Canada* (*Minister of Citizenship and Immigration)*, 2001 FCT 776 [*Valtchev*] to which both parties also referred. *Dya* holds and I agree that *Valtchev* "does not preclude consideration of plausibility or likelihood in making credibility assessment." Justice McHaffie also ruled that a claimant's assertions may be so far-fetched, so far outside the realm of what could be reasonably expected, even after taking cultural differences into account, that it is implausible, even if the objective evidence does not directly address the likelihood of its occurrence":

> [39] At the same time, *Valtchev* does not preclude consideration of plausibility or likelihood in making credibility assessments. If the evidence shows that a particular occurrence never occurs or is clearly unlikely, this may form a reasonable basis for an adverse credibility finding, particularly if there is nothing to explain or corroborate the clearly unlikely occurrence. Similarly, an assertion may be so far-fetched, so far outside the realm of what could be reasonably expected, even after taking cultural differences into account, that it is implausible, even if the objective evidence does not directly address the likelihood of its occurrence.
>
> [Emphasis added]

VI. Relevant legislation

[17] Section 144 of the *Immigration and Refugee Protection Regulations*, SOR/2022-227 [*Regulations*] states:

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

[18] Section 145 of the *Regulations* states:

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

[19] Section 147 of the *Regulations* states:

> **Member of country of asylum class**
>
> **147** A foreign national is a member of the country of asylum class if they have been determined by an officer to be in need of resettlement because
>
> (a) they are outside all of their countries of nationality and habitual residence; and
>
> (b) they have been, and continue to be, seriously and personally affected by civil war, armed conflict or massive violation of human rights in each of those countries.

VII. Analysis

A. *Credibility*

[20] The Applicant submits that the Officer's findings of implausibility were not made in the "clearest" of cases. Notably, the Applicant cites to *Valtchev*, where Justice Muldoon found:

> [7] […] plausibility findings should be made only in the clearest of cases, i.e., if the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the claimant. A tribunal must be careful when rendering a decision based on a lack of plausibility because refugee claimants come from diverse cultures, and actions which appear implausible when judged from Canadian standards might be plausible when considered from within the claimant's milieu. […]
>
> [Emphasis added]

[21] And see to the same effect *Zaiter v Canada*, 2019 FC 908 at paragraphs 9 and 10 and *Santos v Canada (Minister of Citizenship and Immigration)*, 2004 FC 937.

[22] The Applicant submits that the Officer's factual findings on the Applicant's family and narrative are not "based on clear evidence". The Applicant suggests that the Officer's implausibility findings are made only if the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the Applicant. Specifically, the Applicant takes issue with the Officer's assertion that it is implausible for the Applicant to be at risk of persecution while his family is still living safely in Ethiopia. The Applicant notes that the Officer

provided no evidence to support this proposition. Rather, the Applicant notes that he provided oral evidence outlining harassment faced by his family.

[23] On narrative, the Applicant rejects the Officer's assertion that his providing help to the students was implausible. In the Applicant's view, to infer that someone would not give a ride to students because he never did before "defies logic, lacks transparency, and appears to rely solely on speculation", as per Justice Ahmed's reasons in *Del Carmen Aguirre Perez v Canada (Citizenship and Immigration)*, 2019 FC 1269.

[24] The Applicant suggests the Officer's implausibility finding regarding his narrative was based on conjecture and defective logic.

[25] Specifically as it relates to his flight from the police, the Applicant again notes the officer has no evidentiary basis to disbelieve the Applicant's account of his escape. The Applicant's testimony in this regard went as follows:

> I tried my best not for them to see me. There are different checkpoints. The other one there is a road that goes to another place. I used that road. Federal police were around, but at the checkpoint itself was custom police. They were on the boys, not me. Only 1 from Federal police was checking from far and four in the back and side. There was no police the side I was driving.
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> Certified Tribunal Record, at 5.

[26] In the Applicant's view, the Officer ignored the detail provided by the Applicant in his testimony and ventured into an unwarranted implausibility finding.

[27] Finally, the Applicant rejects the Officer's finding as to an alleged lack of detail regarding the Applicant's detention between June 2005 and February 2006. The Applicant suggests his oral testimony in this regard was clear.

[28] In response, the Respondent submits the Officer made no error in finding the Applicant's evidence lacked credibility. With respect, under the constraining law set out above, I agree with the Respondent. The jurisprudence establishes that such makers are entitled to make reasonable findings based on implausibility, common sense and rationality. They may also reject evidence if it is not consistent with the probabilities affecting the case as a whole. In addition, it is worth recalling that such Officers may also reject credible evidence as of insufficient weight. Findings of credibility are a start to the consideration of evidence, but of course do not conclude its acceptance which is a matter of weight in the context of the case. Both are matters for the trier of fact, in this case the Officer, absent exceptional circumstances, as both the Supreme Court of Canada and Federal Court of Appeal dictate in *Vavilov* and *Doyle*.

[29] It is important to note the Officer in this case convoked an oral hearing. The Officer saw and heard the Applicant testify in response to what I consider a fair outline of the Officer's concerns. The Officer specifically raised each concern with the Applicant, and afforded the Applicant an opportunity to testify and respond. In my view, the Officer in this case, as first level trier of fact, had a meaningful advantage in assessing credibility including weighing and assessing credibility and plausibility issues.

[30] I am not persuaded any of the implausibility concerns identified by the Officer are unreasonable. They arise out of the Applicant's testimony. Notably there is not just one but four credibility and implausibility issues found against the Applicant, and to repeat them here:

> 1) Most of your family members have remained in Ethiopia, with good jobs, including your wife and children. You said your family is not in danger, they are living in your house, and that there are no problems there for them.
>
> 2) You picked up two boys in Tolay while driving home because they looked like students. You stated that you had never done this before, out of the 13 years you were a truck driver. The people you picked up ended up being students involved in the protests and were wanted by the police.
>
> 3) You managed to escape arrest, despite police officers being stationed at every vehicle around you, including four searching your own vehicle. You grabbed a taxi and fled the scene, unnoticed.
>
> 4) You were approached during the election in 2005 to be a spy for the opposition political party. After refusing you were put in prison and later released. Limited details and explanations to support the reason for arrest and you release were provided.

[31] The first is based on the Applicant's testimony in response to the Officer's concerns. Importantly, the family according to the Applicant himself, has no concerns. I agree they had been harassed but that was no longer the case. This is a common sense and rational finding. The second is likewise a matter of common sense and rationality, and one the Officer reasonably found per *Dya* was in effect so far-fetched that it is implausible even if the objective evidence does not directly address the likelihood of its occurrence. Notably if there had been objective evidence, the finding might no longer be one simply of plausibility. The third is also evidence-based and in my view reasonable. Of course unlikely events may happen to anyone. But this is the third of four unlikely events noted by this trier of fact based on what the Officer saw and

heard the Applicant testify. The fourth might be speculative but considered with the record as a whole including the previous three findings, I conclude it also comes within the range of findings open to the Officer on the record including the Applicant's oral testimony given the advantage the Officer had through the oral hearing process.

[32] Notably also it is not the role of the Court to reweigh and reassess the evidence and inferences, without exceptional circumstances yet that is what the Applicant asked the Court to do.

[33] On review, I am not persuaded either the credibility finding or the four underlying determinations reveal reviewable error.

B. *Refugee designation*

[34] The Applicant submits the Officer failed to give due consideration to the Applicant's recognition by the Kenyan government as a *Convention* refugee. The Applicant notes there is no indication in the reasons that the Applicant's status as recognized in this document was considered by the Officer in the assessment. The Applicant refers to this Court's decision in *Teweldbrhan v Canada (MCI)*, 2012 FC 371, *Amanuel v. Canada (MCI)*, 2021 FC 662 and other cases which found certain non-Canadian refugee determinations were not sufficiently considered in those particular cases.

[35] Each case is of course decided on its own facts, and the case at bar is no different: it must be decided on its facts.

[36] In this case, the Officer notes the Kenyan government's refugee determination in the very notes the Officer made in the GCMS case management file. This indeed is the starting point to the processing of the Applicant's Canadian refugee application outside Canada under *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] in that the Applicant was a privately sponsored refugee who was required to provide a refugee status document under paragraph 153(1)(b) of the *Regulations* to be eligible.

[37] As is well known, tribunals do not need to refer to every part of the record nor consider every argument by the claimant. They are deemed to have reviewed and considered them. Moreover, there is no jurisprudence that a third-party determination is determinative of Canada's assessment one way or the other; it is settled law they are not: see the jurisprudence in the next paragraph of these Reasons.

[38] It seems to me the assessment of the Kenyan opinion is wholly answered by the Officer's assessment of the Applicant's credibility, as just reviewed and found reasonable. In this respect I apply and adopt the same reasoning as Southcott J. did in *Abreham v Canada (MCI)*, 2020 FC 908:

> [20] Both parties have referred the Court to jurisprudence addressing the significance of a prior UNHCR determination when Canadian authorities are assessing a claim for refugee protection as a member of the Convention refugee class. The Applicants rely on Justice Snider's explanation at paragraphs 57 to 59 of *Ghirmatsion*:
>
> > [57] There is no reference in the CAIPS notes or the decision to the Applicant's status with the UNHCR. I recognize that UNHCR status as a refugee is not determinative; the Officer's mandate is to assess the Applicant's credibility and to determine the merits of his claim under the applicable Canadian laws.

Nevertheless, OP 5 recognizes the importance and relevance of the UNHCR in the processing of applications under the Refugee Abroad Class. In my view, the Applicant's status as a UNHCR refugee was a personal and relevant consideration. In the case of *Cepeda-Gutierrez v Canada (The Minister of Citizenship and Immigration)* (1998), 1998 CanLII 8667 (FC), 157 FTR 35, [1998] FCJ No 1425 (QL)(FCTD), at paragraph 17, Justice Evans (as he was then) was faced with the failure of a decision-maker to consider a highly personal and relevant document. He provided the following oft-quoted guidance:

[T]he more important the evidence that is not mentioned specifically and analyzed in the agency's reasons, the more willing a court may be to infer from the silence that the agency made an erroneous finding of fact "without regard to the evidence": *Bains v. Canada (Minister of Employment and Immigration)* (1993), 63 F.T.R. 312 (F.C.T.D.). In other words, the agency's burden of explanation increases with the relevance of the evidence in question to the disputed facts. Thus, a blanket statement that the agency has considered all the evidence will not suffice when the evidence omitted from any discussion in the reasons appears squarely to contradict the agency's finding of fact. Moreover, when the agency refers in some detail to evidence supporting its finding, but is silent on evidence pointing to the opposite conclusion, it may be easier to infer that the agency overlooked the contradictory evidence when making its finding of fact.

[58] The evidence of the UNHCR designation was so important to the Applicant's case that it can be inferred from the Officer's failure to mention it in her reasons that the decision was made without regard to it. This is a central element to the context of the decision. The Officer, faced with a UNHCR refugee, should have explained in her assessment why she did not concur with the decision of the UNHCR. The Officer was not under any obligation to blindly follow the UNHCR designation; however, she was obliged to have regard to it. Unless a visa officer explains why a UNHCR designation is not being

> followed, we have no way of knowing whether regard was had to this highly relevant evidence.
>
> [59] This error made by the Officer is a sufficient basis on which to overturn the decision. I wish, however, to repeat that the UNHCR determination is not determinative; the Officer must still carry out her own assessment of the evidence before her, including the evidence of the UNHCR refugee status.

[21] The Respondent relies on the more recent decision by Justice Gagné [as Her Ladyship then was, ed.] in *Gebrewldi v Canada (Minister of Citizenship and Immigration)*, 2017 FC 621 [*Gebrewldi*] at paragraphs 28 to 35:

> [28] As for the applicants' UNHCR status, this Court has noted that UNHCR status is not determinative and, rather, that the officer is under a duty to conduct his or her own assessment of an applicant's eligibility for refugee status in accordance with Canadian law (*B231 v Canada (Citizenship and Immigration)*, 2013 FC 1218 at para 58; *Ghirmatsion v Canada (Citizenship and Immigration)*, 2011 FC 519 at para 57; *Pushparasa v Canada (Citizenship and Immigration)*, 2015 FC 828 at para 27). The Operation Manual OP 5 "Resettlement from overseas" [Guidelines] states that visa officers should consider an applicant's UNHCR designation when considering their application for refugee status in Canada (*Pushparasa*, above at para 26; *Ghirmatsion*, above at para 56). However, the "Guidelines are not law and they do not constitute a fixed or rigid code" (*Pushparasa*, above at para 27). Therefore, an applicant's UNHCR status is not determinative of an application for refugee status in Canada.
>
> [29] It is important to note that this Court has repeatedly stated that when examining an officer's decision, the analysis is not limited to the decision letter. Rather, the Global Case Management System [GCMS] notes also form part of the officer's reasons (*Pushparasa*, above at para 15; *Khowaja v Canada (Citizenship and Immigration)*, 2013 FC 823 at para 3; *Kotanyan v Canada (Citizenship and Immigration)*, 2014 FC 507 at para 26).

[30] This Court has stated that, where an officer fails to reference an applicant's UNHCR status in both the notes and the decision, he has committed a reviewable error. Such an error is a sufficient basis on which to overturn the decision (*Ghirmatsion*, above at paras 57-59). However, this Court's decision in *Pushparasa* indicates that if, upon reading the decision and reasons as a whole, it is clear that an officer is "aware" of an applicant's refugee designation, this will be sufficient to meet the standard imposed (*Pushparasa*, above at paras 27-29). In *Pushparasa*, Justice Yvan Roy stated the following:

The CAIPS notes are clear that the officer was aware of the UNHCR designation at the applicant's interview. A photocopy of the valid card appears at page 55 of the Certified Tribunal Record [CTR]. The record also shows email communication between an official and the UNHCR as to whether the applicant had also submitted an application to the United States (CTR at page 28). Questions were asked of the applicant during his interview with Canadian officials about the status of the discussions with the United States immigration authorities (*Pushparasa*, above at para 28).

[31] Justice Roy went on to say that the officer nevertheless found that the applicant did not meet the requirements of the IRPA and Regulations on the merits of his application, a finding which is determinative. Justice Roy concluded that the officer's decision was reasonable.

[32] In the present case, there is evidence in the Certified Tribunal Record that the officer was aware of the applicants' UNHCR status. Photocopies of the refugee identification cards from the Republic of Sudan, for both the Principal Applicant and her spouse, appear in the record. The record also shows that, in the GCMS notes, the officer recognises and refers to the refugee status of the applicants in the Republic of Sudan.

[33] Although the officer does not explicitly reference the applicants' UNHCR status in the decision letter, the decision as a whole, which

> includes the notes and the record, contain indicia of his awareness. According to the jurisprudence, what is required is a thorough assessment of an applicant's eligibility under Canadian law. That was done here.
>
> [34] The officer's decision, read as a whole, establishes that she recognised the applicants' refugee status and that a comprehensive assessment of the application on its merits, in accordance with Canadian law, was conducted.
>
> [35] Neither the UNHCR status of the applicants, nor the general country condition documents, can be a substitute for personal evidence. In light of the serious credibility concerns outlined by the officer, going to the foundation and the root of the applicants' claim, I am of the opinion that the decision falls within the range of possible, acceptable outcomes. Therefore, the officer's decision is reasonable and I see no reason to interfere with it.

> [22] Applying the principles identified in this jurisprudence, I find no basis to interfere with the Officer's decision. The Officer's GCMS notes refer to the Applicants' UNHCR status. Consistent with the analysis in *Gebrewldi*, it is clear that the Officer was aware of that status. The Applicants argue that the Officer was additionally required to explain why that status was not being followed (see *Ghirmatsion* at para 58). However, I consider the Officer's credibility analysis to represent that explanation.

VIII. Conclusion

[39] Given there is no unreasonableness in the credibility finding, the four identified instances discussed, or in the Officer's consideration of the Kenyan refugee decision, this Application for judicial review will be dismissed.

IX. Certified Question

[40] Neither party proposed a question of general importance, and none arises.

JUDGMENT in IMM-5424-22

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed, no question of general importance is certified, and there is no order as to costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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