

CANADA / JUDGMENT

Abukar v. Canada (Citizenship and Immigration)

2025 FC 1905

COURT

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Abukar v. Canada (Citizenship and Immigration)

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Citation: 2025 FC 1905

Ottawa, Ontario, December 1, 2025

PRESENT: Mr. Justice McHaffie

BETWEEN:

MOHAMED JAMA ABUKAR

HASSAN AHMED MOHAMED

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview [1] Mohamed Jama Abukar and Hassan Ahmed Mohamed are citizens of Somalia currently residing in Uganda as refugees. Mr. Mohamed is Mr. Abukar's uncle. They each applied for Canadian permanent residence as sponsored members of the Convention refugee abroad class and the country of asylum class described in sections 145 and 147 of the Immigration and Refugee Protection Regulations, SOR/2002-227.

[2] Although Mr. Mohamed and Mr. Abukar are related, they lived in different towns in Somalia, each working as a farmer. Each of Mr. Mohamed and Mr. Abukar stated that in the fall of 2019, they travelled to Mogadishu to sell grain to a non-governmental organization [NGO] that was paying much more for crops than they could get at home. Each claimed that Al-Shabaab arrested, detained, and fined them for selling crops to "infidels," and confiscated their lands and tractors. Each then left their towns to Mogadishu before ultimately leaving Somalia for Uganda.

[3] Mr. Mohamed and Mr. Abukar were interviewed separately on March 4, 2024, in Kampala, by the same Migration Officer with Immigration, Refugees and Citizenship Canada [IRCC]. After conducting those interviews, the Officer concluded that both Mr. Mohamed and Mr. Abukar showed a "general lack of credibility." In separate decision letters dated March 28, 2024, the Officer refused their applications. Each decision letter raises, in a different manner, a concern that Mr. Mohamed and Mr. Abukar's narratives bore substantive similarities, undermining their credibility. Other credibility concerns were also identified, particularly in the case of Mr. Mohamed.

[4] On this consolidated application for judicial review, Mr. Mohamed and Mr. Abukar each challenge the reasonableness of the Officer's credibility findings. Mr. Mohamed also raises an issue of procedural fairness, claiming his minor children were improperly interviewed in his absence without sufficient procedural safeguards.

[5] For the following reasons, I conclude the two decisions must be set aside, as the Officer did not engage with Mr. Abukar's explanation for the similarities in the stories. Mr. Abukar told the Officer there had been an announcement about selling crops to the NGO in Mogadishu, and that it was common for Somali farmers to sell to the NGO because of the price they were offering and common for them to be arrested and punished by Al-Shabaab for doing so. For an officer's decision to be reasonable—that is, for it to be responsive, transparent, intelligible, and justified—an officer must consider explanations given in response to concerns raised, rather than simply dismissing them summarily. That did not occur in this

case. Even reading the Officer's decisions in light of his interview notes provides no indication that the Officer understood, considered, and explained why he rejected Mr. Abukar's explanation for the similarities.

- [6] Although this explanation was provided by Mr. Abukar during his interview and not by Mr. Mohamed, I conclude that the Officer's failure to address the explanation affects the reasonableness of both decisions. Both decisions express concerns about the similarity of the two narratives, and the explanation given is not unique to Mr. Abukar's narrative. Further, Mr. Mohamed does not appear to have been given an opportunity to provide an explanation, making Mr. Abukar's explanation all the more important to both.
- [7] This shortcoming was sufficiently central to each decision to render them both unreasonable, despite the other credibility issues raised in the decisions. Those other findings, in addition to raising further concerns about adequate justification, are not such that the Court can safely conclude that the decisions would have been the same absent the concern about the similar narratives. I reach this conclusion despite rejecting the procedural fairness argument raised by Mr. Mohamed regarding the interview of his children, and without having to address whether the Officer unreasonably failed to address the applicants' residual risk profiles as members of the minority Bagadi clan.
- [8] The consolidated application for judicial review is therefore allowed, the decisions refusing Mr. Mohamed and Mr. Abukar's applications for permanent residence as sponsored members of the Convention refugee abroad class and the country of asylum class are quashed, and their applications are remitted for redetermination by another officer.

II. Issues and Standard of Review [9] I will address the issues raised by the applicants in the following order:

Was the decision in Mr. Mohamed's case tainted by a breach of procedural fairness?

Were either or both of the Officer's decisions rejecting Mr. Mohamed and Mr. Abukar's sponsored applications for permanent residence unreasonable?

- [10] The first of these issues is reviewable by asking whether the procedure was fair in all of the circumstances: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35. Whether this is termed a correctness standard, a fairness standard, or no standard of review at all, the assessment remains whether the applicant knew the case to meet and had a full and fair chance to respond: *Canadian Pacific* at paras 54–56.
- [11] The second issue goes to the merits of the decision and is reviewable on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Aghazadeh v Canada (Citizenship and Immigration)*, 2020 FC 211 at paras 23–26. When applying this standard, the Court does not undertake its own assessment of the evidence or attempt to determine how it might have decided the case. Rather, the Court's

role is solely to review the decision made and the reasons given, so as to assess whether the decision as a whole meets the requirements of a reasonable administrative decision, namely internal coherence, transparency, intelligibility, justification, and responsiveness to the issues, evidence, and submissions: Vavilov at paras 15, 74–75, 82–87, 91–96, 99–106, 125–128.

III. Analysis A. There was no breach of procedural fairness [12] Mr. Mohamed's eligibility interview was conducted in the morning of March 4, 2024, before that of Mr. Abukar. He attended the interview with his wife and their children, who are included on Mr. Mohamed's application. According to Mr. Mohamed, at the end of his interview, the Officer told him and his wife to leave the interview room and called their three children into the interview room, locked the door, and kept them in the interview room for about 30 minutes. He claims his children later told him that the Officer asked them if he and his wife were their real parents and asked for their account of what occurred in Somalia and why the family left.

- [13] These facts are recounted in affidavits from Mr. Mohamed and his oldest child, who was 16 at the time of the interview and 17 at the time of her affidavit. Citing Chairperson's Guideline 3: Proceedings Involving Minors at the Immigration and Refugee Board and this Court's decision in *Jesuthasan*, Mr. Mohamed argues that the Officer's failure to ensure adequate procedural protections in interviewing the children amounted to a breach of procedural fairness: *Jesuthasan v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 872 at para 11.
- [14] The Officer responded to these allegations in an affidavit. The Officer states that (a) the notes in the Global Case Management System [GCMS] are notes he made contemporaneously of the interview and are accurate, true, and complete; (b) while he asked the children their names and ages directly, he did not interview them separately or ask them any substantive questions; (c) he was never alone with the children and would not have been able to communicate with them without an interpreter; (d) he did not lock the interview room at any time; (e) Migration Officers do not typically interview minors separately from their parents when assessing permanent resident applications unless there are unique circumstances such as a concern about domestic or sexual violence that might require special arrangements; (f) there was no such concern in this case, and he has never in the course of his experience interviewed minors without their parents; and (g) he did not ask any of the children if their parents were really their parents.
- [15] I note that given the apparent IRCC practice not to record interviews for permanent resident applications, an assessment of competing evidence regarding what occurred at an interview is necessarily undertaken on the imperfect basis of recollections, contemporaneous notes, and affidavit evidence regarding those recollections and notes. None of the affiants were cross-examined.
- [16] As the Minister points out, the affidavits filed by Mr. Mohamed and his daughter do not conform with Rule 80(2.1) of the Federal Courts Rules, SOR/98-106. That Rule provides that where an affidavit is written in an official language the deponent does not understand, the

affidavit shall be translated orally for the deponent “by a competent and independent interpreter who has taken an oath [...] as to the performance of his or her duties.” Neither Mr. Mohamed nor his daughter speaks English, the language of their affidavits. The jurat on each affidavit indicates the declaration was translated from English to Somali by Mr. Mohamed’s nephew (and Mr. Abukar’s brother), who is one of Mr. Mohamed and Mr. Abukar’s sponsors. This individual acted as their representative in their applications and assisted them in the preparation of their application forms. He is not an independent interpreter. In the circumstances of this application—in which the sponsor’s involvement in the preparation of the forms is itself an issue—having the sponsor act as interpreter diminishes the weight that can be given to these affidavits.

- [17] I agree with the Minister that for the Officer to have interviewed the children separately as described by Mr. Mohamed, the independent interpreter would have to have been present and participated in the improper questioning of minors contrary to usual practice. The unlikelihood of this having occurred is increased by the absence of any indication that either the separate interview of the children—which Mr. Mohamed says worried, angered, and shocked him—was raised either with the Officer, the interpreter, or IRCC at any time before the affidavits filed in this proceeding.
- [18] Having reviewed the evidence, I am not satisfied that Mr. Mohamed has established, on a balance of probabilities, that his children were interviewed separately in his absence.
- [19] In any event, I am not satisfied that there is any indication that any aspect of an alleged separate interview of the children affected either of the decisions in any way. Neither the Officer’s decision letters nor his underlying GCMS notes give any indication that he referred to or relied on any information obtained from the children in making his decision. If an asserted breach of procedural fairness could have had no impact on a decision, it will not generally result in the decision being set aside: *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43; *Nyarko v Canada (Citizenship and Immigration)*, 2012 FC 661 at para 9; *Pavicevic v Canada (Attorney General)*, 2013 FC 997 at paras 55–56; *Haile v Canada (Citizenship and Immigration)*, 2019 FC 538 at para 66.
- [20] I therefore conclude that Mr. Mohamed has not established that there was a breach of procedural fairness that warrants setting aside the refusal of his application for permanent residence.
- [21] I note for completeness that the applicants originally raised allegations of a reasonable apprehension of bias on the part of the Officer. Those allegations were withdrawn at the hearing.

B. The decisions were unreasonable (1) The permanent resident applications [22] Mr. Abukar and Mr. Mohamed were each sponsored for permanent residence by a group of five Canadian citizens or permanent residents. Each group included Mr. Abukar's brother as one of the sponsors. Each application necessarily included a "Schedule 2 – Refugees Outside Canada" form that includes a "case narrative" asking applicants to describe the events which led them to flee their home country.

[23] Mr. Abukar's Schedule 2 narrative states that he and his family were farmers in the town of Qoryoley. Al-Shabaab, which controlled the town, demanded payments from farmers and would take Mr. Abukar's tractor to use on their own farm, even requiring him to pay for gas. In November 2019, Mr. Abukar went to sell crops in Mogadishu to an NGO that was offering a better price. While he was away, Al-Shabaab came to his house looking for his tractor. When he returned from Mogadishu, members of Al-Shabaab arrested him at his home and held him for 30 days, accusing him of selling crops to infidels. They then took over Mr. Abukar's farm and tractor and fined him \$1,500 to release him. Mr. Abukar and his wife decided to flee Qoryoley to Mogadishu in early 2020. However, since they knew there were frequent killings and explosions in Mogadishu, they did not feel safe there and left Mogadishu in February 2020, ultimately arriving in Uganda.

[24] Mr. Mohamed filed an initial Schedule 2 with his permanent residence application in December 2020, and an updated one in February 2024, after his interview was scheduled. According to his Schedule 2 narratives, in early September 2019, Mr. Mohamed took his crops to Mogadishu to sell at a better price. Later that month, after returning to his village of Darusalaam, members of Al-Shabaab came to him in his mosque and detained him for 45 days. They accused him of selling crops to infidels, took over his farm and tractor, and fined him \$1,000, which was collected by relatives in his village. When Al-Shabaab released him and "warned [him] the final notice," he was frightened and decided to flee his village as his farm and tractor had been confiscated. His family fled to Mogadishu, where he got a job at a restaurant. There, he was stopped by two armed men who threatened to destroy him and his family if he did not stop working there. He found out that there were people fighting to take over the restaurant from the owner, and they focused on harming the workers. Fearing their threats and being aware of daily killings and explosions in Mogadishu, he and his family left Somalia in February 2020.

(2) The interviews [25] Mr. Abukar and Mr. Mohamed were each convened for interviews on March 4, 2024, which were conducted through an interpreter. As noted above, Mr. Mohamed's interview was conducted first. As the Officer's decisions must be read in light of the record, the notes of the interviews are important in understanding the Officer's reasons: Vavilov at paras 91–96, 103; Ezou v Canada (Citizenship and Immigration), 2021 FC 1146 at para 23. It is therefore worth setting out in some detail the exchanges that occurred at the interviews.

- (a) Mr. Mohamed's interview [26] After addressing various background and identification matters regarding Mr. Mohamed and his family, the Officer asked Mr. Mohamed why he left Somalia. Mr. Mohamed recounted his narrative of taking crops to sell in Mogadishu and being jailed by Al-Shabaab for 45 days before being released on payment of a fine. Discussion ensued regarding the 20 days between Mr. Mohamed's release from detention and his departure from Darusalaam, which Mr. Mohamed attributed to looking for ways to get his family out of the city.
- [27] When asked how he could have left a city controlled by Al-Shabaab, Mr. Mohamed stated that Al-Shabaab had told him to leave the city within 15 days, although he stayed for 20. Seeking clarification, and concerned that Mr. Mohamed's Schedule 2 narrative had not referred to such a demand, the Officer asked a number of follow-up questions about whether the decision to leave was that of Mr. Mohamed or Al-Shabaab. Mr. Mohamed responded, "[t]heir decision and my decision was the same the only difference is that I stayed there for 5 additional days because I was taking the whole family and I needed the plan." After two further questions about being "chased out" by Al-Shabaab, Mr. Mohamed confirmed that it was his decision to leave Darusalaam.
- [28] Mr. Mohamed was then asked about his reasons for leaving Mogadishu and the events surrounding the restaurant dispute. He recounted the incidents and threats from the two armed men, stating that he worked for two days after they first approached him, but then left his job after they threatened him over the telephone. He also said that he did not know who the men were. This raised concerns on the part of the Officer, who understood Mr. Mohamed's narrative to say that he knew the men and who they were working for. Mr. Mohamed clarified that there were two groups of people fighting over the restaurant, but that he could not say whether the people who threatened him belonged to either of those groups. Asked if the men were from Al-Shabaab, Mr. Mohamed said he did not know and could not tell. At the same time, Mr. Mohamed confirmed that he and his family left Somalia because Al-Shabaab troubled and tortured them, and that those risks existed everywhere in Somalia.
- [29] After a series of questions regarding admissibility and settlement, the Officer's notes set out a number of questions under the heading "PFL," which can be understood as the Officer looking to meet the obligations of procedural fairness by putting his credibility concerns to Mr. Mohamed. The first of these was a concern that Mr. Mohamed had "flip-flopped" on the question of whether he had been chased out of Darusalaam by Al-Shabaab or whether it had been his own decision to leave. Mr. Mohamed explained that Al-Shabaab had decided he had to leave and gave him 15 days to do so, but that he made the final decision to leave because of the problems he was facing. Mr. Mohamed agreed with the Officer's statement that Al-Shabaab "chased [him] out" but reiterated that it was his own decision to leave.
- [30] With respect to the events in Mogadishu, the Officer noted that while Mr. Mohamed said at the interview that he worked for two days after the two men first threatened him, his narrative just said that he took the threats seriously and stopped working at the restaurant.

Mr. Mohamed said that his sponsor may have made a mistake, since he had told him that he had stopped after two days. The Officer also told Mr. Mohamed that in his narrative, he “seems to know the group they belong to but during the interview you stated that you did not know them.” Mr. Mohamed repeated that he did not know who the people were, and again suggested there may have been a mistake by the sponsor. The Officer also suggested that Mr. Mohamed’s reasons for leaving Somalia were not clear, as he claimed to have left Somalia because of Al-Shabaab, but also said he left because he took seriously the threats of the two armed men, who were not from Al-Shabaab. Mr. Mohamed repeated that he did not know who the men were, saying they might have been from Al-Shabaab or not, but that Al-Shabaab were the ones responsible for the killings, bombing, and threatening people, and were the reason the country was in chaos.

- [31] At the end of these questions, the Officer records that he saw many discrepancies between Mr. Mohamed’s narrative and his interview, and that he did not believe his story. He indicated that Mr. Mohamed had contradicted himself several times, blamed the sponsor who wrote the story for him, and was unable to provide reasonable explanations for these contradictions. The notes conclude with the following three sentences (as written):

I also told client that I believed that he just heard about a similar story but never actually genuinely experienced these events himself as his nephew has the same story and they were living in different cities and all the 2 stories were written by their sponsor. All these discrepancies in the client’s story led me to believe that the story is not genuine.

Client was advised that few more research will be made before a decision is made on his case.

- (b) Mr. Abukar’s interview [32] Mr. Abukar’s interview also began with background and identification matters regarding Mr. Abukar and his family, before turning to why he left Somalia. Mr. Abukar recounted his narrative regarding Al-Shabaab coming to Qoryoley, taking control of the city, putting taxes on farmers, and forcibly using his tractor. He described having taken his harvest to Mogadishu for sale and Al-Shabaab coming to his house to arrest him when he returned, accusing him of selling to non-believers. He referred to his 30-day detention, the \$1,500 fine, and his subsequent departure to Mogadishu. After being unable to find a job in Mogadishu and due to the bombings and killings in the city, they decided to leave Somalia.
- [33] The Officer questioned Mr. Abukar about Mr. Mohamed, including whether the two shared the same sponsor. Mr. Abukar did not know whether they did but said his brother was helping a lot of people and had helped him complete his own application forms in English based on his account of his narrative.
- [34] Under the same “PFL” heading seen in the notes of Mr. Mohamed’s interview, the Officer raised a series of similarities between Mr. Abukar’s narrative and that of Mr. Mohamed, which are set out in the GCMS notes as follows:

1. Same person filled out the forms for you 2

2. Mogadishu to sell crops
3. Coming back and being detained
4. Farm and tractor being taken from you both
5. Almost same fine imposed
6. Fleeing your city to Mogadishu for few weeks
7. Fleeing the country from Mogadishu

- [35] Asked to respond to these similarities, Mr. Abukar explained that (a) all of his family members are farmers and have tractors for their farm work; (b) the incident with Al-Shabaab did not only happen to him and his uncle, but to everyone who had a farm and sold their crops in Mogadishu; and (c) they were selling their crops in Mogadishu because the NGO requested crops and offered to pay more than double what they could receive in their town.
- [36] Mr. Abukar confirmed that he was not told to leave Qoryoley, and was not directly threatened after his detention, but that he and his wife decided to leave since Al-Shabaab had taken everything. When asked what prompted him to leave Mogadishu, Mr. Abukar referred to his inability to find a job, the bombings and killings happening in Mogadishu, the fact that the money from his harvest was running out, and the cost of education for their children. He confirmed that his family did not receive direct threats in Mogadishu other than “the bombings and some street bullets that can hit you.”
- [37] As a “last question,” the Officer returned to the similarities between Mr. Abukar and Mr. Mohamed’s stories. Mr. Abukar added that the announcement of selling crops to NGOs in Mogadishu was released to all districts and repeated that everyone who participated in selling the crops was arrested and had their properties taken. The Officer advised Mr. Abukar that he was still wondering who “owns this story” between Mr. Abukar and Mr. Mohamed and whether it really happened. He added that Mr. Abukar “did not give any satisfactory answers to [his] concerns,” leading him to disbelieve that Mr. Abukar genuinely experienced the events. Asked if he had anything to add, Mr. Abukar stated that Al-Shabaab had “one rule” for governing all places they control, that they had received an announcement at the same time from the NGO, and that they realized after that everyone was later arrested.
- (3) The decisions [38] The Officer rejected the two applications in separate letters, each dated March 28, 2024. The GCMS notes also contain a section entitled “Officer Decision,” but the notes under this heading are repeated in the decision letters, such that the central aspects of the Officer’s reasoning are found in both places. The Officer found that both Mr. Mohamed and Mr. Abukar showed “a general lack of credibility,” with different reasons being given for this conclusion in the two letters.

- (a) The refusal of Mr. Mohamed's application [39] In the decision letter refusing Mr. Mohamed's application, the Officer states that Mr. Mohamed provided conflicting information on a number of points regarding his reasons for fleeing Somalia. The Officer then raises four points of concern:

You first stated that you left Darlam on your own decision at the same time saying that you were chased out of your city by Al Shabab. You kept flip flopping to the point that the confusion remained as I did not know the true answer to the question after the interview.

You blamed your sponsor on few discrepancies in your story and what you said during the interview but as principal you are responsible of your claim and no one else can be blamed.

During the interview you pointed [to] Al-Shabab as the main [reason] why you left Mogadishu but your story talk about a conflict between 2 groups fighting to control the restaurant you were working in and nothing to do with Al-Shabab.

After careful review of your story and the story of your nephew both of you confirmed with me that they were written by your sponsor and the similarities are obvious.

- [40] The Officer notes that some discrepancies in relation to some details could be expected as normal, but that the quantity of conflicting information was significant. He added that Mr. Mohamed had appeared "hesitant" to answer some questions. Due to these discrepancies, the Officer concluded that Mr. Mohamed showed a general lack of credibility, and therefore did not meet the requirements of the relevant classes.

- (b) The refusal of Mr. Abukar's application [41] The Officer's substantive assessment of Mr. Abukar's credibility raised three points. First, the Officer pointed to the similarities in Mr. Abukar and Mr. Mohamed's narratives, listing the same seven points of similarity raised at the interview and reproduced at paragraph [34] above. Second, the Officer stated that the decision to leave Qoryoley was Mr. Abukar's after discussion with his wife, and that no one threatened him to leave his city. Third, the Officer noted that Mr. Abukar confirmed he left Mogadishu and Somalia because of the general situation in the city and because they were running out of money, but that nothing had directly happened to him personally. Due to "all of the above," the Officer found Mr. Abukar showed a general lack of credibility and therefore did not meet the eligibility and admissibility requirements of the program.

- (4) The refusals were unreasonable [42] For the reasons detailed below, I conclude that both refusals must be set aside. I will address the decision in Mr. Abukar's application first, as my conclusion in respect of both decisions is driven principally by the absence of any analysis of Mr. Abukar's explanation for the similarities in his and his uncle's narrative.

- (a) The refusal of Mr. Abukar's application was unreasonable [43] As the parties agree (each coincidentally citing a decision named Liu), an officer may reasonably draw adverse credibility conclusions from uncanny and unexplained similarities between the narratives of refugee claimants: *Liu v Canada (Minister of Citizenship and Immigration)*, 2006 FC 695 at paras 22, 39; *Liu v Canada (Citizenship and Immigration)*, 2023 FC 765 [*Liu* (2023)] at para 7.

At the same time, an officer must consider whether there are valid reasons for the similarities, including explanations put forward by the claimant, and should not draw negative conclusions from similarities if there is a valid reason for them: Liu (2023) at para 7, citing Ravichandran v Canada (Citizenship and Immigration), 2015 FC 665 at paras 18–19; Zhang v Canada (Minister of Citizenship and Immigration), 2006 FC 550 at paras 25–28. More broadly, a decision may be unreasonable if an officer fails to engage with explanations that are not “obviously implausible” before making an adverse credibility finding: Ehichoya v Canada (Citizenship and Immigration), 2022 FC 1329 at para 31; Owusu-Ansah v Canada (Minister of Employment & Immigration), 1989 CanLII 10377, 8 IMM LR (2d) 106 (FCA) at p 113; Vavilov at paras 127–128.

- [44] As set out above, Mr. Abukar explained that many farmers sold crops to the NGOs in Mogadishu because of the higher prices that were being offered, and that many who did so were arrested, detained, and fined by Al-Shabaab, and had their lands and equipment seized. This explanation does not appear to be “obviously implausible,” as a common practice by an agent of persecution may result in multiple claimants having suffered similar experiences in the same area. While the Officer was not required to accept this explanation, he was required to consider it and explain why he did not accept it. This did not occur. Rather, the Officer stated baldly during the interview that Mr. Abukar “did not give any satisfactory answers” to the concerns and reiterated in the decision letter that Mr. Abukar’s responses “did not allay that concern.” These are simply conclusions, not reasons.
- [45] Nor is any rationale found elsewhere in either the decision letter or the GCMS notes showing that the Officer considered the explanation and provided reasons why it was not accepted. I recognize that the Officer may well have particular expertise or knowledge that would assist in his assessment of the explanation provided. However, any such expertise or knowledge must be demonstrated through reasons rather than simply assumed as the basis for rejecting an explanation: Vavilov at paras 93–96.
- [46] The Minister contends that the Officer’s concern was that the alleged events occurred in the exact same sequence, with similar timing and similar consequences for two families living in different parts of the country but with a common sponsor. It is clear the Officer was concerned about the common sponsor (which is not inherently problematic) and the similar periods of detention and the similar fines (although these differed by as much as 50%). However, there is no indication in the decision or the GCMS notes that the Officer rejected the explanation for the similarities because of the particular sequence of events. Indeed, much of the sequence is necessarily self-defining: the arrests would necessarily occur after the sale of crops to the NGOs, with the punishments following, and the flight occurring thereafter. In any case, the problem is the lack of reasoning by the Officer as to why he rejected the explanation for the similarities, and it is not for the Minister or the Court to fill in that reasoning if it cannot be understood from the record: Vavilov at para 96.

- [47] The Officer's finding regarding the similarities was clearly central to his conclusion that Mr. Abukar lacked credibility, and thus, to the refusal of the application. I conclude that the failure to grapple with Mr. Abukar's explanation in a reasoned manner is sufficiently serious to undermine the credibility finding as a whole and render the decision unreasonable: Vavilov at paras 100, 127–128.
- [48] In this regard, I recognize that the Officer did raise two other matters in his credibility assessment, namely the fact that Mr. Abukar decided to leave Qoryoley himself rather than being threatened to leave, and the fact that his decision to leave Mogadishu and Somalia was based on the general situation in the city and lack of funds, rather than anything directed at him personally. These may be matters relevant to issues such as subjective fear and/or forward-looking risk. However, the Officer presents no explanation at all as to why voluntarily leaving a city after being detained, fined, and stripped of one's lands by a group such as Al-Shabaab, or leaving a city because of general violence and a lack of money, adversely affects a claimant's credibility. The Officer does not refer to any inconsistency or incoherence in Mr. Abukar's testimony on these issues or give any other reason as to why this evidence contributed to Mr. Abukar's "general lack of credibility." Given these concerns and the importance of the similarities to the Officer's credibility conclusion, the decision cannot stand on the basis of these additional credibility issues alone.
- (b) The refusal of Mr. Mohamed's application was unreasonable [49] The Officer also relied on the similarity between both narratives in refusing Mr. Mohamed's application, but there are two principal differences between the two cases. First, Mr. Mohamed did not himself provide the explanation that Mr. Abukar gave for the similarity. Second, the Officer cited the similarity as the fourth of four identified credibility concerns (in addition to the concern about "hesitant" answers), with a less detailed description of the issue. For the following reasons, I conclude that these differences do not affect the extent to which the failure to address the explanation of the similarities affects the reasonableness of the decision as a whole.
- [50] On the first point, I find that in the particular circumstances of this case, the fact that Mr. Mohamed did not himself provide the explanation for the similarities does not affect the unreasonableness of the Officer failing to address it. The Officer clearly treated the two applications together, referring in both decisions to the other application and their commonalities. As a result, there is less of a clear dividing line between the applications and their records than there would typically be between two unrelated applications that were treated separately. Indeed, one cannot fully understand the nature of the Officer's concern about "obvious" similarities without referring to the notes and decision in Mr. Abukar's file, where the Officer itemizes the similarities that were of concern.

- [51] Further, the explanation given by Mr. Abukar was one that sought to account for the similarities between the two narratives. The explanation was not unique to Mr. Abukar's narrative and would apply equally to Mr. Mohamed's application and narrative. In these particular circumstances, being aware of the explanation given required the Officer to consider the explanation before holding the similarities against Mr. Mohamed's credibility.
- [52] This conclusion is reinforced by the fact that the GCMS notes—which the Officer confirmed were accurate, true, and complete—reveal that the Officer did not give Mr. Mohamed the chance to explain the similarities. Unlike the interview with Mr. Abukar, the Officer did not identify the similarities between the narratives that he was concerned about and put them to Mr. Mohamed for explanation. Rather, the only reference in the interview to the similarities between the narratives came right at the end of the interview, in the passage reproduced at paragraph [31] above. In that passage, the Officer "told" Mr. Mohamed that he believed he just heard about a similar story but did not experience it "as his nephew has the same story and they were living in different cities and all the 2 stories were written by their sponsor." There is no indication that the Officer asked Mr. Mohamed to respond to or explain the similarities, or specified which similarities concerned him. This is significant, as the GCMS notes show that when the Officer raised issues and asked for an explanation, he recorded in the notes both the nature of the concern and the question and answer.
- [53] Failing to put the concern about similarities to Mr. Mohamed for an explanation before relying on it raises concerns about procedural fairness. I will not find a breach of procedural fairness on this point, however, since Mr. Mohamed did not raise this as a procedural fairness concern until the oral hearing of this application. Nevertheless, this failure means that Mr. Abukar's explanation for the same similarities became all the more important in respect of Mr. Mohamed's application, obliging the Officer to consider the explanation before relying on the similarities to cast doubt on Mr. Mohamed's credibility.
- [54] I note that Mr. Mohamed's affidavit filed on this application provides the same explanation as that provided by Mr. Abukar, namely that their mutual experience of being targeted by Al-Shabaab for selling their goods in Mogadishu is not unique and happens to many farmers throughout Somalia. This evidence was not before the Officer and thus cannot affect the reasonableness of the decision. However, it underscores that Mr. Abukar's explanation, which was before the Officer, would have equally been before him in the context of Mr. Mohamed's application had the Officer observed the principles of procedural fairness by giving Mr. Mohamed an opportunity to respond. In other words, the reason that Mr. Mohamed did not provide the explanation was simply that he was not afforded an opportunity to do so.
- [55] I therefore find that in these unusual circumstances, it was unreasonable for the Officer to have relied on the similarities between Mr. Mohamed's narrative and that of Mr. Abukar without addressing the explanation that was before him, even though that explanation was provided by Mr. Abukar and not Mr. Mohamed.

- [56] The Minister argues that the Officer's decision ought to stand notwithstanding this finding, since the Officer raised a number of other issues regarding Mr. Mohamed's credibility, which were sufficient to reject his claim. Having considered the Officer's reasons and the parties' arguments on these other grounds, I am not satisfied that the decision can stand based on these other identified credibility concerns.
- [57] Two of the other areas of "conflicting information" raised by the Officer suggest that he was unwilling to accept that a refugee claimant may have fled a location for two or more reasons. The first relates to why Mr. Mohamed left Darusalaam. Mr. Mohamed stated that Al-Shabaab demanded he leave within 15 days, but that he made the ultimate decision to leave. As he explained, "[t]heir decision and my decision was the same." The Officer described this as "flip-flopping" between the two rationales without apparently considering that they could both be true: that Al-Shabaab warned Mr. Mohamed to leave, and he therefore ultimately made the decision to do so.
- [58] The second relates to why Mr. Mohamed left Mogadishu and Somalia. The Officer referred to Mr. Mohamed having identified Al-Shabaab as the main reason he left Mogadishu during the interview, while his narrative referred to the conflict over the restaurant and "nothing to do with Al-Shabab." The Officer does not appear to have considered that Mr. Mohamed may have been motivated to leave Mogadishu both because of the threats from those fighting over the restaurant and because of concerns about the safety of the city owing to Al-Shabaab. This is precisely what he stated in his narrative, saying that he feared the threats of those fighting over the restaurant, and also knew there were killings and explosions daily in Mogadishu, which he attributed to Al-Shabaab during the interview.
- [59] In this regard, it is difficult to ascertain why the Officer concluded that Mr. Mohamed had pointed to Al-Shabaab as the main reason he left Mogadishu, when Mr. Mohamed emphasized the conflict with the armed men in both his interview and his narrative. Based on the interview notes, Mr. Mohamed's response to the question, "Why did you leave Mogadishu?" was entirely about the restaurant dispute and the two armed men. He did not refer at all to Al-Shabaab. It was not until the Officer asked why Mr. Mohamed could not return to Somalia that he referred to the bombings and targeted killings by Al-Shabaab. The Officer's conclusion that Mr. Mohamed identified Al-Shabaab as the main reason for leaving Mogadishu during the interview, and that this created an inconsistency with his Schedule 2 narrative, therefore appears to be based on a misapprehension or failure to account for the evidence: Vavilov at para 126.
- [60] I also have some concerns about the Officer's finding that Mr. Mohamed blaming inconsistencies on his sponsor impacted his credibility, because it is unclear there were any such inconsistencies. The Officer was quite correct that a refugee claimant cannot generally hide behind their sponsor or someone who helped them prepare their documents. However, in this case, the two occasions on which Mr. Mohamed referred to the possibility of an error by the sponsor in preparing the narrative arose when the Officer misstated, or at least overstated, what had been said in the narrative. Each pertained to the incidents with the two

armed men in Mogadishu.

- [61] The first arose from Mr. Mohamed's testimony that he had worked for two more days after first meeting the armed men. The Officer put this to him as an inconsistency, saying that his narrative indicated that he took the threats seriously and stopped working. However, while Mr. Mohamed's narrative does not refer to working for two more days, it also does not say that he stopped working immediately. To the contrary, it says that he was accosted by the armed men, then he found out that there were people fighting over the restaurant, and then he took their threats seriously and stopped working.
- [62] The second related to Mr. Mohamed's knowledge of the armed men. The Officer put to Mr. Mohamed that in his narrative, he "seems to know the group they belong to," but during the interview he said he did not know them. Again, however, Mr. Mohamed's narrative does not say he knew the armed men or the group they belong to. It simply says he was stopped by two armed men and later found out there were "people" fighting with the owner of the restaurant. This is effectively what he said in his interview: there were two groups of people fighting over the restaurant, but he could not say whether the men who threatened him were from either of those groups.
- [63] As the Officer was aware, Mr. Mohamed spoke little English, which is why his sponsor helped him complete his application. It was therefore particularly important for the Officer to be precise in conveying to him any asserted inconsistencies said to arise from his narrative. It was unreasonable for the Officer to overstate what was said in the narrative in identifying an inconsistency and then criticize Mr. Mohamed for suggesting that there was an error in preparing the narrative.
- [64] Finally, the Officer's reference to Mr. Mohamed appearing "hesitant" to answer "some" questions directly is difficult to assess without any greater detail in either the decision or the GCMS notes as to what this refers to. While a witness's demeanour may be considered (with caution) in assessing credibility, a decision maker must explain their conclusions based on demeanour as they must other credibility findings. A generalized reference to hesitation provides little grounds to justify a general lack of credibility.
- [65] The Officer's ultimate conclusion that Mr. Mohamed lacked credibility was "[d]ue to these discrepancies," referring to all of the foregoing elements of his analysis. Given that this included the unreasonable reliance on the similarities, and the concerns about the other elements of the Officer's assessment set out above, I am satisfied that Mr. Mohamed has established that the credibility finding as a whole is unreasonable: Vavilov at paras 100, 106, 125-128, 135, 194. I therefore conclude that the Officer's refusal of Mr. Mohamed's application must also be set aside.
- [66] Given the foregoing conclusions, I need not address Mr. Abukar and Mr. Mohamed's argument that the Officer unreasonably failed to address their residual risk profiles as members of a minority clan in Somalia.

IV. Conclusion [67] The consolidated application for judicial review is therefore allowed and the refusals of both sponsored applications for permanent residence are set aside, with the applications to be redetermined by a different officer. For clarity, the two applications may be redetermined by the same officer or two different officers, provided that they are not the Officer who previously determined the applications.

[68] Neither party proposed a question for certification. I agree that no serious question of general importance warranting certification arises in the matter.

JUDGMENT IN IMM-9134-24 AND IMM-9135-24

THIS COURT’S JUDGMENT is that

The consolidated application for judicial review is allowed. The two decisions dated March 28, 2024, refusing the applicants’ applications for permanent resident visas as members of the Convention refugee abroad class or country of asylum class are quashed, and the two applications are remitted for redetermination by a different officer.

“Nicholas McHaffie”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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IMM-9134-24

STYLE OF CAUSE:

MOHAMED JAMA ABUKAR v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

AND DOCKET:

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HASSAN AHMED MOHAMED v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

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MCHAFFIE J.

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