

CANADA / JUDGMENT

Sheikh v. Canada (Citizenship and Immigration)

2026 FC 618

COURT

Federal Court

DECIDED

13 May 2026

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Sheikh v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-05-13 Neutral citation 2026 FC 618 File numbers IMM-21967-24 Decision Content Date: 20260513 Docket: IMM-21967-24 Citation: 2026 FC 618 Toronto, Ontario, May 13, 2026 PRESENT: The Honourable Justice Battista BETWEEN: MOHAMED AHMED SHEIKH Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent REASONS AND JUDGMENT UPON considering the Applicant's application for judicial review of the decision dated November 8, 2024 to refuse his application for Canadian permanent residence as a member of the Convention Refugees Abroad Class or Humanitarian-Protected Persons Abroad Class; AND UPON noting the parties' consent to the determination of this application for judicial review in writing; AND UPON finding no support for the submission from counsel for the Respondent that "the determinative issue was credibility" for the Officer who refused the application, given that the decision describes no adverse findings of credibility, and does not identify any credibility concerns; AND UPON finding that the decision was based upon the Officer's assessment of uncited "open source" documentary evidence, allegedly describing country conditions, which was not produced in the material filed for this application for judicial review, including the Certified Tribunal Record; AND UPON agreeing with Justice Nicholas McHaffie that "[i]t is essential for accuracy, efficiency, and fairness that the Court and the parties know precisely the scope and extent of the record on the application for judicial review, including the contents of the documents being relied on" (Brown v Canada (Citizenship and Immigration), 2025 FC 1943 at para 41); AND UPON finding that the failure to produce or even cite documentary evidence upon which the decision was based results in a failure of justification and transparency, which is sufficient in itself to allow this application for judicial review (Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 at para 95); AND UPON FURTHER FINDING that the Officer unreasonably applied the test for Convention refugee status by basing the decision on a finding that forcible recruitment is not a "common" method for recruitment by Al-Shabaab, given that pursuant to the Convention refugee test the threshold of risk requires only a serious possibility of persecution (See Chan v Canada (Minister of Employment and Immigration), 1995 CanLII 71 (SCC), [1995] 3 SCR 593, at para 120; Gomez Dominguez v Canada (Citizenship and Immigration), 2020 FC 1098 at paras 27-29); AND UPON FURTHER FINDING that the Officer erred by failing to analyze the Applicant's

allegation of his past personal experience of forcible recruitment by Al Shabaab, which was a central argument supporting the application, and which was not doubted by the Officer (Vavilov, at paras 127-128). JUDGMENT in IMM-21967-24 THIS COURT'S JUDGMENT is that: The application for judicial review is granted, the decision rendered on the Applicant's application for Canadian permanent residence as a member of the Convention Refugees Abroad Class or Humanitarian-Protected Persons Abroad Class is set aside, and the matter is remitted to a different decision maker for redetermination. There is no question for certification and no order regarding costs. "Michael Battista" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-21967-24 STYLE OF CAUSE: MOHAMED AHMED SHEIKH v THE MINISTER OF CITIZENSHIP AND IMMIGRATION UPON JOINT REQUEST FROM THE PARTIES, MATTER CONSIDERED SOLEY ON WRITTEN REPRESENTATIONS WITHOUT THE NEED FOR AN ORAL HEARING AT TORONTO, ONTARIO REASONS and judgment: BATTISTA J. DATED: MAY 13, 2026 WRITTEN SUBMISSIONS: Rachael J. Anderson For The Applicant Alexander Brooker For The Respondent SOLICITORS OF RECORD: RJA Law Barrister and Solicitor Edmonton, Alberta For The Applicant Attorney General of Canada Edmonton, Alberta For The Respondent

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Prepared on 24 October 2026 · Esheria