



**LA COMMISSION DE L'IMMIGRATION
ET DU STATUT DE RÉFUGIÉ
(SECTION DU STATUT DE RÉFUGIÉ)**

**IMMIGRATION AND REFUGEE BOARD
(REFUGEE DIVISION)**

File/Dossier: AA0-01612

**HUIS CLOS
IN CAMERA**

DEMANDEUR

XXXXXXXXXXXXXX

CLAIMANT

DATE DE L'AUDIENCE

February 15, 2002

DATE OF HEARING

LIEU DE L'AUDIENCE

Ottawa, Ontario

PLACE OF HEARING

DATE DE LA DÉCISION

March 20, 2002

DATE OF DECISION

CORAM

Deborah Coyne

CORAM

POUR LE DEMANDEUR

Karla Unger
Barrister and Solicitor

FOR THE CLAIMANT

AGENT CHARGÉ DE LA REVENDICATION

J.M. Besner

REFUGEE CLAIMS OFFICER

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These are the reasons for decision in the claim to refugee status of XXXXXXXXXXXXX, an 18-year-old citizen of Somalia. The claimant alleges that he faces a serious possibility of persecution because of his ethnic background, Midgan.

The claimant claimed that he arrived in Canada as a minor on or about October 11, 2000. He alleged that his father-in-law had found a “broker” in Addis Ababa, Ethiopia, who had provided him with a false Ethiopian passport. Evidently, although the claimant said that his picture was not in the passport, the false passport was adequate to get through Canada Immigration and allowed the claimant to come with the broker to Ottawa. He was, allegedly, dropped off at the Elmdale Mall where he happened to meet a Somali woman who temporarily took him in and pointed him in the right direction, so to speak, in order to file his refugee claim.

The claimant claims that he was about 8 years old when he left Somalia in the midst of war and panic, in the process losing his entire family. (His parents and siblings were listed by name with only approximate birthdates on his PIF). He ended up with a family who also belonged to the same minority tribe, Midgan, in Biokoupal, Ethiopia. There he worked at menial tasks and attended Koranic School with his benefactor’s daughter, XXXXX. The claimant alleged that he faced increasing difficulties as a result of his ethnic background, Midgan, including being sexually assaulted by his employer at a restaurant. The claimant then claimed that his benefactor encouraged him to marry his daughter XXXXX. They conceived a child almost immediately. His then father-in-law arranged for the smuggler to Canada, and suggested the claimant’s wife and son would soon follow.

Almost one and a half years have passed since the claimant left. He testified that he has received no word whatsoever from his father-in-law and alleged spouse. He has not been able, or has made no serious attempt, to contact them.

The panel notes that the only piece of corroborating objective evidence of any of the foregoing is a birth certificate, which was marked as Exhibit C-2.¹ The certificate indicates that a XXXXXXXXXXXXX was born in Kismayo, Somalia on XXXXX, 1983. While the panel did not examine the original of the certificate, which was seized by CIC, the copy revealed on its face difficulties, which diminished its credibility. First, it was an English document which contained spelling errors in the boiler plate area (“flowing name” instead of “following name”). Most importantly, the panel is aware from both written and oral testimony in other Somali claims that most documents issued by a Somali authority are of questionable value, since they are obtained by the person concerned who, for a fee, simply provides the self-serving information to the issuing authority.

Even if the panel was to conclude that this was a valid birth certificate, what does it establish? That someone by the name of XXXXXXXXXXXXX was born in Kismayo in 1983. There is no picture or other unique feature to permit me to conclude even on a balance of probabilities in the circumstances of this case (as I will discuss further herein) that the young man in front of me is that XXXXXXXXXXXXX.

¹ The claimant also produced a psychological report written by Dr. XXXXXXXX, marked as Exhibit C-3. Since Dr. XXXXXXXX essentially accepted the claimant’s description of his background and was not in a position to test the claimant’s credibility, the panel cannot attribute much, if any weight to the document.

Moreover, in questioning the claimant as to how he obtained the birth certificate, his testimony did not go far to assuage the panel's concerns as to the validity of the certificate. He explained that his mother had put the certificate in his knapsack when he went to school during the 1991 hostilities just in case he might have need of it. Therefore, coincidentally, he happened to have it on the day when he became separated from his family. Subsequently, as he was allegedly raised in someone else's family, the birth certificate remained his only document.

The panel does not find this explanation to be plausible in the circumstances of this case. The claimant's testimony did not have the ring of truth, he could provide no persuasive details as to why his mother would have put the certificate in the backpack of an 8-year-old boy going off to school in the midst of uncertain and dangerous hostilities. For example, if his mother was really afraid for his safety, she might have kept him home from school.

Let us now turn to what other documents or corroborative evidence the claimant could have produced to help persuade me of the veracity of his testimony regarding his identity, and by extension, his story of persecution.

First, the claimant could have brought something of a documentary or objective nature to show that he was in Biokoual, Ethiopia. He had nothing except, he suggested, a pair of leather shoes which were made there, but had no identifying features. When asked about clothing, he replied that he had outgrown everything he had brought with him, and had given or thrown it away.

The claimant could have brought evidence to establish that he did arrive in Canada in the manner alleged, for example, a dated boarding pass for an airplane. He had nothing. He brought

no witnesses to attest to his identity or story of persecution, and despite regular attendance at a local mosque since his arrival, has developed no real contacts herein Ottawa. The panel does not find it plausible or reasonable that a newly wed young man with an infant son would make no attempt to reestablish contact with his family after his arrival. On the contrary, not only has the claimant made no attempt to reestablish contact, but also he appeared evasive in his testimony when questioned about his clothes, documents and so forth. The panel, accordingly, is not persuaded on a balance of probabilities, that the claimant is who he says he is and that he came to Canada in the manner suggested.

The panel is aware that it is possible to make direct phone calls to Ethiopia. In this age of global communications and travel, innovative means of contacting even the most isolated place is not impossible. At the very least there is clearly, judging from the steady intake of refugee claimants who allege that they are coming from Ethiopia, a constant human connection in play between Canada and Ethiopia. The claimant could, for example, have provided phone numbers of any persuasive contacts in Ethiopia that the Board could call, interview, and objectively verify, with reasonably minimal effort.

The claimant's counsel suggested that perhaps the claimant's background as a Midgan was preventing the claimant from being more forthcoming and showing more initiative in terms of trying to contact his family. In this connection, counsel pointed to the assessment of the claimant by the psychologist XXXXXXXXXXXXXXXX submitted as Exhibit C-3. Counsel also suggested that perhaps the claimant's family knows exactly where the claimant is and simply has not found the opportune time to contact him. Counsel further argued that the claimant only speaks Somali and does not appear to speak any other language. Therefore, I should, on a

balance of probabilities, find in his favour on the issue of his identity as who he says he is - a displaced Somali citizen living in Ethiopia.

With great respect to counsel on a balance of probabilities I cannot agree with her speculation about the claimant's family and his knowledge of languages, in the circumstances of this case. The claimant gave his testimony in a lucid straightforward manner. Every opportunity was provided to him to be more forthcoming with the panel. I have not accorded any significant weight to the psychologist's report, since Dr. XXXXXXXXXX was not in a position to test the claimant's credibility and simply accepted as true the claimant's description of his background.

As I indicated on the record, a number of factors including the events of September 11th have led me to conclude that, on a balance of probabilities, we must be particularly exigent with respect to the identity of undocumented and improperly documented claimants. In this case, I am not persuaded, on a balance of probabilities, that the claimant is genuinely unable to produce any sort of credible corroborative evidence of either his travel or his identity. This might have been the case had the claimant been plucked out of the chaos in Somalia in the early 1990's and come immediately to Canada, but not in the early years of the 21st century when the claimant has spent a significant number of years of relative stability, even if illegally, in Ethiopia, and then carefully planned his exit from Ethiopia. As set out in the Practice Notice on the "Processing of Undocumented and Improperly Documented Claimants" (IRB 1997), I draw a negative inference in the circumstances of this case from the claimant's failure to produce any persuasive corroboration that was reasonably available of his identity as a Somali citizen displaced in Ethiopia.

On a balance of probabilities, I conclude that the claimant's failure to cooperate is because he is deliberately hiding something in his background such as previous travel or status elsewhere which might adversely affect a refugee claim in Canada. The panel cannot operate blindfolded, especially when the blindfold is the result of what the panel concludes as a question of fact, is the claimant's deliberate failure to provide full disclosure.

There are a number of disparate possible explanations for the claimant's failure to obtain corroborative evidence:

1. The claimant is telling the truth and he is simply too young and scared to make any contact within the extensive Somali community in Ottawa in order to take some steps to contact his wife and young son.
2. The claimant in fact is Ethiopian and traveled to Canada with a valid passport, but being unable to emigrate legally to Canada, decided to assume a Somali identity in the hope that he might be "expedited" through the refugee system.
3. The claimant came from a safe third country, and for whatever reason (perhaps rejection of a refugee claim, a preference for living in Canada) has decided to come to Canada. The claimant has paid for his passage by listing false relatives who will later arrive and claim a family association with the claimant to facilitate his/her landing in Canada. In this connection, the panel notes that in recent months, increasing numbers of minor children and single females appear to be entering the refugee stream especially in Ottawa and Toronto, allegedly to join extended Somali families. A significant number of new arrivals are allegedly long-lost, or not-so-long-lost,

siblings, parents or children of Convention refugees, with all the same problems of identity and alleging to be unable to afford definitive bloodtests.

4. The claimant comes from a reasonably well off family who has decided that Canada would be a better place for the claimant to live at this time.

Which of the above is true? For the reasons set out above, the panel has concluded that the claimant's explanation (no. 1) for his lack of corroborating documents and other evidence, and his appearance unaccompanied in Canada is not the truth. The burden is on the claimant to prove his claim, including his identity, on a balance of probabilities. The panel has set out other possible explanations for the absence of adequate corroboration in order to illustrate the realm of possibilities which confront a decision-maker when a claimant arrives improperly documented.

It is my judgment that it is not unreasonable to require all claimants to produce credible corroborative travel or identity documents, or provide Canada Immigration with other objective evidence such as reliable phone numbers or addresses which allow CIC to expeditiously verify, for example, their displacement to Ethiopia, their absence of status in third countries and so forth. Their failure to cooperate with Canadian officials, whether at CIC or at the Board, even when claimants are represented by competent counsel, in many cases can give rise to a negative inference and allow one to conclude, as in this case, that some material evidence may be being hidden or deliberately not disclosed. This then is enough for me to find that, on a balance of probabilities, the claimant has not persuaded me that he is who he says he is and therefore is not entitled to the status of Convention refugee.

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In conclusion, I must note that I made it clear both to counsel and the claimant that I would welcome the opportunity to be persuaded through whatever corroborative evidence was available (e.g. phone calls, correspondence, etc), that the claimant was from Somalia and had been living in Ethiopia. Somalia, or for that matter Ethiopia, is not a country to which this panel would return a genuinely unaccompanied person who might face more than a mere possibility of persecution because of his ethnic background.

But this then makes the question of where this claimant comes from absolutely critical and I do not find that is unreasonable to require that the claimant make much more meaningful efforts to assist counsel, the Board and CIC officials to establish his identity and antecedents on a balance of probabilities as soon as possible after arrival.

For all the foregoing reasons, the Panel finds that XXXXXXXXXXXXX is not a Convention refugee.

“Deborah Coyne”

Deborah Coyne

Dated at Ottawa this 20th day of March 2002.

**REFUGEE DIVISION - IDENTITY - CREDIBILITY - EVIDENCE - DOCUMENTATION - MALE
- NEGATIVE - SOMALIA**