

Federal Court



Cour fédérale

**Date: 20150327**

**Docket: IMM-6676-13**

**Citation: 2015 FC 396**

**Toronto, Ontario, March 27, 2015**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**RICHARD MANOO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Richard Manoo [the Applicant] seeks judicial review, pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA], of a decision dated September 23, 2013 of visa officer at the High Commission of Canada in Port of Spain, Trinidad [the Officer] denying the Applicant's application for Authorization to Return to Canada, pursuant to s 52(1) of the IRPA [the Decision].

I. Background

[2] The Applicant is a sixty-five-year-old citizen and resident of Trinidad and Tobago. His wife passed away in 1985. The Applicant's one hundred and two year old mother is a Canadian citizen. The Applicant also has seven brothers and sisters, all of whom currently live in and around Toronto.

[3] The Applicant first entered Canada on September 18, 2002, at which time he made a refugee claim, in which he alleged persecution at the hands of criminals in Trinidad and Tobago. A conditional removal order was issued upon his arrival. On June 14, 2004, the Applicant's refugee claim was denied.

[4] The Applicant then applied for a Pre-Removal Risk Assessment [PRRA] on April 13, 2006, which was later denied and, as a result, the conditional removal order became enforceable on January 5, 2007.

[5] On March 10, 2007, the Applicant was arrested and detained. On March 14, 2007 he was deported to Trinidad. He subsequently reimbursed the Canadian government for the cost of his deportation.

[6] Prior to being deported, the Applicant submitted an application for permanent residence for humanitarian and compassionate reasons. On June 18, 2012, he learned that his application had been refused.

[7] In February 2008, the Applicant applied for a temporary resident visa to visit his family in Canada. That application was refused.

[8] Several years later, the Applicant's sister retained counsel to prepare a multiple entry visa application for the Applicant. According to him, it was submitted to the Canadian visa office in Trinidad in December 2012. However, pursuant to s 52(1) of the IRPA, he was also required to submit an Application for Authorization to Return to Canada [the ARC Application]. It was submitted on June 20, 2013.

## II. The Decision

[9] The reasons for the Decision refusing the ARC read as follows:

ASSESSMENT: APPLICANT – ENTERED CDA AS VISITOR AND REMAINED WITHOUT AUTHORIZATION - WAS ISSUED A DEPORTATION ORDER AND FAILED TO APPEAR FOR REMOVAL – WAS SUBJECT OF A NATIONAL ARREST WARRANT, ARRESTED AND DETAINED – REMOVED FROM CANADA AT CROWN EXPENSE. PURPOSE OF TRAVEL IS TO VISIT FAMILY. TRV ALREADY REFUSED. THE RISK POSED BY APPLICANT TO CANADIAN SOCIETY IS NOT HIGH BASED ON HIS HISTORY. HE HAS EGREGIOUSLY MANIPULATED THE IMMIGRATION SYSTEM TO REMAIN AS A PR IN CANADA THOUGH HE HAS NOT OBTAINED PR STATUS. HE WAS NOT COOPERATIVE WITH IMMIGRATION AUTHORITIES IN CANADA. HE WAS REMOVED AT CROWN EXPENSE AND REPAID DEPORTATION EXPENSES. THE NEGATIVE FACTORS IN THIS APPLICATION OUTWEIGH THE POSITIVE AND THUS THE APPLICATION FOR ARC IS DENIED.

[my emphasis]

## III. Issues

[10] The issue is - Is the Decision reasonable?

#### IV. Discussion

[11] In my view the Decision is unreasonable because the Officer relied on the factual errors described below:

- The Officer's statement that "the Applicant entered Canada as a visitor and remained without authorization" is inaccurate. In fact, he remained as a refugee claimant and a PRRA applicant.
- The Officer's statement that the Applicant "he has egregiously manipulated the immigration system" is also inaccurate. What the Applicant did was avail himself of applications for Refugee Status , a PRRA and H&C consideration that he was entitled to make under Canadian law.

[12] The Decision is also unreasonable because the statement "purpose of travel is to visit family" minimizes the importance of the Applicant's trip. The Applicant's application for the ARC shows he wished to visit family members, including a sick mother, a sister who had had a stroke, a niece who is in a wheelchair, and a brother who had been in a car accident.

#### V. Certification

[13] No question was posed for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application is allowed;
2. The Decision is set aside and is to be reconsidered by a different Officer.
3. The Applicant may file fresh material for the reconsideration, and a fresh application for a visitor's visa.

"Sandra J. Simpson"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6676-13

**STYLE OF CAUSE:** RICHARD MANOO v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 25, 2015

**JUDGMENT AND REASONS:** SIMPSON J.

**DATED:** MARCH 27, 2015

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