

Federal Court



Cour fédérale

Date: 20210519

Docket: IMM-4742-19

Citation: 2021 FC 464

Ottawa, Ontario, May 19, 2021

PRESENT: Madam Justice Simpson

BETWEEN:

SADRUDIN BHIMJI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS
(Delivered orally from the Bench by teleconference
at Ottawa, Ontario on May 3, 2021)

[1] This application is for judicial review of a decision of an Immigration Officer [the Officer], dated June 27, 2019, dismissing the Applicant's application under section 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for permanent residence on humanitarian and compassionate [H&C] grounds.

[2] The Applicant, who is now 93 years old, is a citizen of the United Kingdom who came to Canada in 2017 to live with his Canadian daughter and her family, following the death of his wife of many years. He is in good health.

[3] The Applicant has three children. One son lives in the U.K. The other son and daughter live in Canada and are Canadian citizens. The Applicant also has four siblings; three of them live in Canada, as does his late wife's extended family.

[4] The Applicant has held a temporary resident visa with various renewals since he came to Canada. He currently has implied status pending a decision on his most recent application to renew his visa.

I. **The Officer's Decision**

[5] The Officer found that the Applicant had demonstrated family ties to Canada.

[6] The Officer also found that the Applicant's pension income, as well as proceeds from the sale of his home in the U.K., mean that he is financially stable. The Officer concluded that because the Applicant acknowledged that his daughter would be an eligible sponsor, a successful sponsorship could be expected. Furthermore, the Officer found that the Applicant could apply for a super visa which would allow him a two-year, uninterrupted stay while a sponsorship application was pursued.

[7] On the question of hardship, the Officer dismissed the Applicant's claim that separation from his children would constitute a hardship since he had been able to maintain a close relationship with them for decades while he lived in the U.K. As well, the Applicant did not provide sufficient evidence to support his claim that he would need to live in a nursing home on his return to the U.K.

II. **The Issue**

[8] Did the Officer engage meaningfully with the evidence of the Applicant's advanced age and need for support?

III. **Discussion**

[9] The Officer, in my view, erred in her assessment of the hardship the Applicant would face if he were to return home because she unreasonably presumed that he had a network of family and friends in the U.K. On the issue of family, the evidence was that his son was not close to him and suggested that he live in a nursing home, and that his sister was also elderly. Further, there was no basis for a presumption that, after two years in Canada, he had maintained a network of friends. Lastly, given his age, it was unreasonable to assume that he would still have friends from his working life.

IV. **Certification**

[10] No question was posed for certification for appeal.

V. **Conclusion**

[11] The application for Judicial Review will be allowed. The Applicant's H&C application is to be reconsidered by a different officer.

JUDGMENT IN IMM-4742-19

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the H&C application is to be reconsidered by a different officer.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4742-19

STYLE OF CAUSE: SADRU DIN BHIMJI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY TELECONFERENCE

DATE OF HEARING: MAY 3, 2021

JUDGMENT AND REASONS: SIMPSON J.

DATED: MAY 19, 2021

APPEARANCES:

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