

Federal Court



Cour fédérale

Date: 20230330

Docket: IMM-2425-22

Citation: 2023 FC 445

Ottawa, Ontario, March 30, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

CECIL SEERATTAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Cecil Seerattan (the “Applicant”) seeks judicial review of the decision of a Senior Immigration Officer (the “Officer”), refusing his request for the reconsideration of the refusal of his Pre-Removal Risk Assessment (“PRRA”) application, made pursuant to section 112 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[1] The Applicant is a citizen of Guyana. He applied for a PRRA in January 2020, while incarcerated at Toronto East Detention Centre. He retained the services of a lawyer to file his PRRA submissions.

[2] The application was denied by a decision communicated to the Applicant on July 12, 2021.

[3] On September 30, 2021, with the assistance of Counsel, the Applicant applied for reconsideration of the negative decision. He provided supplementary material in response to the comments made by the Officer in denying the PRRA application.

[4] The reconsideration request was denied in the following terms:

Your PRRA application was considered and has been refused. You were provided with the decision in person on July 12, 2021, and your application was concluded. After a review of your reconsideration request, I have exercised my jurisdiction not to reconsider your application.

You have submitted additional evidence related to your claim of risk assessed in the original decision. I note that between the date of initiation of your application and the date of the decision, you had over eighteen months to provide all relevant documentation including these [*sic*] additional evidence. I have considered your explanation and personal circumstances during this time. I note that you had opportunities, over the course of more than a year, to gather documents, contact your counsel and seek alternate counsel if necessary. I am not satisfied that your explanation demonstrates an exceptional case where a reconsideration is warranted. Furthermore, you have submitted evidence based on a new fact that would be more appropriately considered in the context of a subsequent PRRA.

Therefore, the initial decision to refuse your PRRA application remains unchanged.

[5] According to the decision in *Canada (Minister of Citizenship and Immigration) v. Kurukkal*, 2010 FCA 230, an officer has discretion in deciding to reopen a claim. That discretion must be exercised reasonably. Such a decision is subject to review on the standard of reasonableness, following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[6] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see *Vavilov, supra* at paragraph 99.

[7] In my opinion, the decision here does not meet the standard. Contrary to the teaching in *Vavilov, supra* at paragraphs 80 to 100 and paragraph 183, the reasons for the decision do not show that the Officer considered the personal “stakes” of the Applicant. His personal circumstances include a mild intellectual disability.

[8] It is not necessary for me to address any other arguments.

[9] The application for judicial review will be allowed, the decision of the Officer will be set aside and the matter remitted to another officer for redetermination. There is no question for certification.

JUDGMENT in IMM-2425-22

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside and the matter is remitted to another officer for redetermination. There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2425-22

STYLE OF CAUSE: CECIL SEERATTAN v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: MARCH 13, 2023

REASONS AND JUDGMENT: HENEGHAN J.

DATED: MARCH 30, 2023

APPEARANCES:

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Leanne Briscoe FOR THE RESPONDENT

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