

Federal Court



Cour fédérale

Date: 20230517

Docket: IMM-3543-22

Citation: 2023 FC 694

Toronto, Ontario, May 17, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

CARMELITA BALANCE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Carmelita Balance (the “Applicant”) seeks judicial review of the decision of a Case Processing Officer (the “Officer”), refusing her application for permanent residence in Canada on Humanitarian and Compassionate (“H and C”) grounds, pursuant to section 25 of the *Immigration and Refugee Protection Act*, S.C. 2001 , c. 27 (the “Act”).

[2] The Applicant is a citizen of the Philippines. She has resided in Canada, as a visitor, since 2015. She has lived with her daughter and son-in-law, and their three children since 2015. She made her H and C application on the basis of her establishment in Canada and the best interests of her grandchildren, for whom she has provided care.

[3] The Applicant now argues, among other things, that the Officer ignored evidence and made an unreasonable decision.

[4] The Minister of Citizenship and Immigration (the “Respondent”) submits that the decision is reasonable and that there is no basis for judicial intervention.

[5] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the decision is reviewable on the standard of reasonableness.

[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, considering the contents of the Certified Tribunal Record, and the written and oral submissions of the parties, I am satisfied that the decision fails to meet the applicable standard of review.

[8] The reasons of the Officer are not intelligible. Without addressing every flaw, I note that the treatment of the issue of the Applicant's establishment seems to include consideration of the possibility of sponsorship by her daughter.

[9] It is impossible to discern the reasoning of the Officer in refusing the Applicant's H and C application. Accordingly, the application for judicial review will be allowed, the decision will be set aside and the matter remitted to a different officer for redetermination. There is no question for certification.

JUDGMENT in IMM-3543-22

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

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3543-22

STYLE OF CAUSE: CARMELITA BALANCE v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: May 16, 2023

REASONS AND JUDGMENT: HENEGHAN J.

DATED: May 17, 2023

APPEARANCES:

Kelicia Letlow-Peroune FOR THE APPLICANT

Stephen Jarvis FOR THE RESPONDENT

SOLICITORS OF RECORD:

KYL Law Firm FOR THE APPLICANT
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario