

Between:

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION,

Applicant,

- and -

JULIEE IDA MARTIN,

Respondent.

REASONS FOR ORDER

HEALD, D.J.

This is an application for judicial review of the decision of the Appeal Division, Immigration and Refugee Board signed on October 23, 1996. By that decision the Appeal Division granted an appeal by the respondent from a refusal of the sponsored application for permanent residence of her husband Robert Martin.

THE DECISION OF THE APPEAL DIVISION

The Division held that although Martin's previous two marriages to Canadian women may give rise to suspicion, such a suspicion is insufficient, per se, to conclude that his present marriage to this respondent is not *bona fide*.

My perusal of the record persuades me that there was ample evidence to support the bona fides of the present marriage and the Division's finding that the refusal based on subsection 4(3) of the Immigration Regulations was invalid because her husband Martin was a member of the family class.

The Division then considered the issue of criminal inadmissibility. It concluded that Martin had accepted responsibility for the crime (assault of one Melinda Funk with whom he had a previous relationship). It also considered the punishment imposed (a fine of \$150.00) and noted that the victim did not suffer any injuries.

On this basis the panel concluded that Martin had accepted responsibility for the crime, the crime was not serious, and there was a low risk of re-occurrence of the offence. In my view, such a conclusion by the panel is supported by the record.

The panel then proceeded to consider whether there existed, on this record, sufficient compassionate and humanitarian grounds to warrant the granting of special relief. At Page 18 of the Applicant's Application Record, the panel stated: "The panel finds that the appellant is suffering emotionally from the separation and that there is evidence of ongoing contact and visits by the appellant to the United States. It is clear to the panel that the appellant loves the applicant ["Martin" herein] and misses him greatly as do her children. The appellant testified that the applicant feels the same for her. There were numerous letters of support from friends, family members and associates attesting to the love between the appellant and the applicant and the general character of the two.

The panel is satisfied that sufficient humanitarian and compassionate grounds exist in this case to overcome the weight of the ground of criminal inadmissibility and thereby justifying the granting of special relief."

On this basis, the Appeal Division concluded that while the refusal pursuant to paragraph 19(2)(a) of the *Immigration Act*, was in accordance with law, there existed, on this record, sufficient compassionate and humanitarian grounds to warrant the granting of special relief.

CONCLUSION

In my view, the Appeal Division's reasons accurately summarize the relevant evidence herein and reach reasonable conclusions therefrom. In essence the panel concluded that Martin was a person who formed numerous relationships with different women but did not conclude that his motivation was to obtain status in Canada. There was ample evidence to support that finding. Likewise, I conclude that there was a reasonable foundation in the evidence for the Appeal Division's decision to exercise its equitable jurisdiction.

Accordingly, and for the above reasons, the within application for Judicial Review is dismissed.

CERTIFICATION

Neither counsel suggests certification of a serious question of general importance pursuant to Section 83 of the *Immigration Act*. I agree. Accordingly, no question is certified.

Deputy Judge

Vancouver, British Columbia
August 13, 1997

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**STYLE OF CAUSE: THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

- and -

JULIEE IDA MARTIN

COURT NO.: IMM-4068-96

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: August 13, 1997

**REASONS FOR ORDER OF HEALD, D.J.
dated August 13, 1997**

APPEARANCES:

Wendy Petersmeyer for Applicant

Juliee Ida Martin for Respondent

SOLICITORS OF RECORD:

**George Thomson for Applicant
Deputy Attorney General
of Canada**

**Juliee Ida Martin for Respondent
on behalf of herself**