

Federal Court



Cour fédérale

**Date: 20231107**

**Dockets: IMM-11750-22  
IMM-11752-22**

**Citation: 2023 FC 1484**

**Ottawa, Ontario, November 7, 2023**

**PRESENT: The Honourable Mr. Justice Pamel**

**Docket: IMM-11750-22**

**BETWEEN:**

**HIPATIA MEDINA AGREDA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**Docket: IMM-11752-22**

**AND BETWEEN:**

**ABEL MEDINA LOPEZ  
MARIA DEL CARMEN AGREDA CRUZ**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

## **JUDGMENT AND REASONS**

### I. Background and the decision under review

[1] The applicant, Hipatia Medina Agreda, a 43-year-old Mexican national, seeks judicial review of a decision dated November 9 2022, of a senior immigration officer [Officer] who denied her and her parents' joint application for permanent residence from within Canada on humanitarian and compassionate [H&C] grounds [Officer's Decision], pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act].

[2] Ms. Agreda arrived in Canada in August 2021 to support her sister, who was seriously ill; Ms. Agreda's parents had arrived earlier for the same purpose. In March 2022, Ms. Agreda and her parents jointly applied for permanent resident status on H&C grounds [H&C application]. Unfortunately, Ms. Agreda's sister passed away in June 2022 while the H&C application was pending, leaving a net worth of about \$867,000; Ms. Agreda thereafter filed supplemental evidence in support of her H&C application and relied mainly on the factors of establishment in the local religious community and hardship if they were to return to Mexico.

[3] On November 9, 2022, the Officer denied Ms. Agreda and her parents' H&C application, issuing two separate decisions (one for Ms. Agreda and the other for her parents), but with one set of reasons. The Officer did not doubt that the family was shattered by the death of Ms. Agreda's sister and that they found strength and solace through their church and the friendships that they have developed while in Canada. However particularly because of the short period of time that the family was in Canada, the Officer gave minimal weight to the establishment factor. In the end, the Officer was not satisfied that returning to Mexico would

result in the family having to sever the relationships that they had established in Canada, that the family would experience difficulty in having to apply for permanent residence from overseas, that they would not be able to re-establish themselves and readjust to the life that they had in Mexico, or that they would face hardship upon their return.

II. Issues and standard of review

[4] The issue in this application for judicial review is whether the Officer's decision was reasonable. There is consensus that the appropriate standard of review of the Officer's decision before this Court is the presumptive reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 25; *Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanhasamy*] at paras 43-44).

III. Analysis

[5] Ms. Agreda argues that the Officer's decision was perfunctory at best and that it failed to engage with the evidence before the Officer and to adequately respond to the emotional crisis that she and her family were facing following the death of her sister. She argues that although she has been in Canada for a short period, she and her parents have forged a deep connection to their faith community in Vancouver, which provided significant support while they were going through a difficult time; it is a personalized community that they built in Canada and that was essential for them to cope and deal with the death of Ms. Agreda's sister. Given those deep connections, Ms. Agreda maintains that the Officer's proposition that these connections can be maintained online or replicated in Mexico is not responsive to the facts of their case.

[6] In particular, Ms. Agreda argues that one need only look at the letters of support to see clearly that the faith community that they discovered in Canada, that they got to know and that got to know them while they lived through the tragedy of losing Ms. Agreda's sister, is a faith community that is uniquely placed in the lives of the family; she argues that there is no faith community in Mexico that could replicate the establishment that they have created within their faith community in Canada because no other such community will have lived through the emotional trauma that the family experienced with the death of Ms. Agreda's sister. The Officer failed to engage with those letters of support, and thus, argues Ms. Agreda, regardless of the fact that they were only in Canada for a short period of time, and even though no evidence was provided to show that similar faith communities do not exist in Mexico, the Officer did not consider that their faith community in Canada provided a level of establishment where the hardship created by extracting the family from it rises to the level of an H&C and makes the family deserving of relief.

[7] I can only but imagine the pain that the family is going through with the death of Ms. Agreda's sister, however, I cannot agree with them that the Officer did not sufficiently appreciate the circumstances of their H&C application. I accept that the Officer's Decision was not long, but in fairness, the issue that was put before the Officer was very straightforward; as put clearly by Ms. Agreda before me, the issue was whether the Officer properly engaged with the nature and elements of the family's establishment which went beyond the purely numeric assessment of the little time that the family has spent in Canada.

[8] For my part, I do not read the Officer's Decision as failing to respond to the heartbreak that Ms. Agreda and her parents are facing, nor to the importance of the support network that the family had built up within their newly found faith community in Canada. Unfortunately, there is no decision that will bring Ms. Agreda's sister back to her family, and the Officer clearly recognized their loss. However, the Officer had to determine whether the disruption to the family's establishment in Canada weighed in favour of granting the exemption under subsection 25(1) of the Act. The Officer recognized the emotional trauma experienced by the family, acknowledged the letters of support, considered the degree of hardship that would be occasioned if the family had to return to Mexico before applying for permanent resident status, and looked at whether the level of disruption to such establishment favours the relief sought (*Truong v Canada (Citizenship and Immigration)*, 2022 FC 697 at paras 14 and 15); in this case, the Officer found that it did not. In short, although there is inevitably to be some hardship associated with being required to leave Canada, the Officer found that the hardship that would invariably be suffered by the family in this case did not rise to the level which "would excite in a reasonable [person] in a civilized community a desire to relieve the misfortunes of another" (*Kanthisamy* at paras 21 and 23, quoting *Chirwa v Canada (Minister of Citizenship and Immigration)* (1970), 4 IAC 338 at 350).

[9] I must agree with the Minister that what Ms. Agreda is asking the Court to do is reweigh the evidence; I cannot do that. The decision to grant H&C relief is exceptional, highly discretionary and based on a global assessment of the individual's circumstances (*Kanthisamy* at para 94). Under the circumstances, and I have not been convinced that the Officer's Decision was unreasonable.

**JUDGMENT in IMM-11750-22 and IMM-11752-22**

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

1. The application for judicial review is dismissed.
2. There are no questions for certification.

“Peter G. Pamel”

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Judge

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

**DOCKET:** IMM-11750-22

**STYLE OF CAUSE:** HIPATIA MEDINA AGREDA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**DOCKET:** IMM-11752-22

**STYLE OF CAUSE:** ABEL MEDINA LOPEZ, MARIA DEL CARMEN  
AGREDA CRUZ v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** OCTOBER 11, 2023

**JUDGMENT AND REASONS:** PAMEL J

**DATED:** NOVEMBER 7, 2023

**APPEARANCES:**

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