

Federal Court



Cour fédérale

Date: 20240702

Docket: IMM-4164-23

Citation: 2024 FC 1031

Ottawa, Ontario, July 2, 2024

PRESENT: Mr. Justice O'Reilly

BETWEEN:

THERESA DIOGO OGIDI-GBEGBAJE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] In 2022, Ms Theresa Diogo Ogidi-Gbegbaje, a citizen of Nigeria, applied for a temporary residence visa (TRV) for a three-week visit to some of her children who are studying in Canada. A visa officer denied Ms Ogidi-Gbegbaje's request finding that she had failed to show that she had the means to finance her trip and that she would return to Nigeria at the end of it.

[2] Ms Ogidi-Gbegbaje argues that the officer's decision was unreasonable because it overlooked her strong ties to Nigeria, her financial resources, and the legitimate purpose of her

trip – to visit her children. She has not seen them since before the COVID-19 pandemic. She asks me to quash the officer’s decision and order another officer to consider her visa request.

[3] I agree with Ms Ogidi-Gbegbaje that the officer’s decision was unreasonable. I will, therefore, grant this application for judicial review.

II. Was the Officer’s Decision Unreasonable?

[4] The Minister argues that the officer’s decision was reasonable because it relied on the fact that Ms Ogidi-Gbegbaje has strong ties to Canada, given that some of her children live here. The officer reasoned that those ties might incline Ms Ogidi-Gbegbaje to stay in Canada beyond the duration of her visa. In addition, says the Minister, the officer properly took account of Ms Ogidi-Gbegbaje’s socio-economic status – her means were not consistent with the stated purpose of her visit.

[5] I disagree with the Minister’s submissions. The officer’s reasons were not supported by the evidence.

[6] While Ms Ogidi-Gbegbaje has ties to Canada through her children, she has much stronger ties to her native Nigeria. She has another child in Nigeria, as well as her husband, her parents and her siblings. She is active in her local church and community. She has a good job in the Governor’s office in Delta State, which she has held for over 25 years. She was granted leave from her job for the three-week trip.

[7] Ms Ogidi-Gbegbaje's socio-economic circumstances were favourable. She was invited to Canada by long-time friends who undertook to provide her with food and accommodation. In addition to her own salary, she was also assisted financially by her husband, a senior bureaucrat, who provided bank statements showing his ability to pay for the trip.

[8] In light of the evidence, the officer's decision was not justified, intelligible, or transparent – it was unreasonable.

III. Conclusion and Disposition

[9] The officer's decision denying Ms Ogidi-Gbegbaje a TRV was unreasonable because it was unsupported by the evidence. I must, therefore, grant this application for judicial review and order another officer to reconsider Ms Ogidi-Gbegbaje's application. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-4164-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed, and another officer is ordered to reconsider the applicant's application.
2. No question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4164-23
STYLE OF CAUSE: THERESA DIOGO OGIDI-GBEGBAJE v. THE
MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING: TORONTO, ONTARIO
DATE OF HEARING: MAY 28, 2024
JUDGMENT AND REASONS: O'REILLY J.
DATED: JULY 2, 2024

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