

Federal Court



Cour fédérale

Date: 20120430

Docket: IMM-6341-11

Citation: 2012 FC 498

Toronto, Ontario, April 30, 2012

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

IYANDA DEANZA SHERISA THOMAS

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] Ms. Iyanda Deanza Sherisa Thomas (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “Board”) made on August 11, 2011. In that decision the Board determined that the Applicant is neither a Convention refugee nor a person in need of protection within the meaning of section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.S. 2001, c. 27 (the “Act”).

[2] The Applicant, a citizen of St. Vincent and the Grenadines, sought protection in Canada as a member of a particular social group; presumably single women without family support.

[3] In this application for judicial review the Applicant argues that the Board breached the duty of procedural fairness by proceeding to hear her claim in the absence of counsel and without explaining to her the nature of the case that she had to establish. As well, she submits that the Board unreasonably concluded that she was not a Convention refugee or a person in need of protection. Specifically that the Board's failure to address abandonment and psychological abuse, as grounds for protection, was a reviewable error.

[4] The issue of a breach of procedural fairness is reviewable on the standard of correctness; see *Canada (Minister of Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339 at para 43. The findings of the Board as to the well-foundedness of the Applicant's claim for protection are reviewable on the standard of reasonableness; see *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190 at paras. 53.

[5] Having regard to the record, there is no claim for finding a breach of procedural fairness. The Applicant attended for her hearing without counsel. She was asked if she was prepared to proceed without counsel and answered in the affirmative. There is nothing in the transcript to suggest that she was unable to meaningful participation in the hearing. In my opinion, there was no breach of procedural fairness.

[6] Likewise, I am satisfied that the Board made a reasonable decision upon the merits of the Applicant's claim. She was unable to identify an agent of persecution. She clearly stated that her principal reason for wanting to stay in Canada was to access a better life for herself and her Canadian-born son. While this desire may assist in an application for permanent residence on humanitarian and compassionate grounds, the Board did not err in rejecting these grounds in an application for protection pursuant to section 96 and subsection 97(1) of the Act.

ORDER

THIS COURT ORDERS that the application for judicial review is dismissed. There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6341-11

STYLE OF CAUSE: IYANDA DEANZA SHERISA THOMAS v. THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 30, 2012

**REASONS FOR ORDER
AND ORDER BY:** HENEGHAN J.

DATED: April 30, 2012

APPEARANCES:

Richard Odeleye FOR THE APPLICANT

Leanne Briscoe FOR THE RESPONDENT

SOLICITORS OF RECORD:

Babalola Odeleye FOR THE APPLICANT
Barrister & Solicitor
Toronto, Ontario

Myles J. Kirvan FOR THE RESPONDENT
Deputy Attorney General of Canada
Toronto, Ontario