Federal Court  Cour fédérale

Date: 20120504

Docket: IMM-4114-11

Citation: 2012 FC 531

Ottawa, Ontario, May 4, 2012

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

JEANNE JNOJULES

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

INTRODUCTION

[1] This is an application under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c. 27 (Act) for judicial review of the decision of an Immigration Officer (Officer) dated 3 June 2011 (Decision) which denied the Applicant's request for permanent residence on humanitarian and compassionate (H&C) grounds under subsection 25(1) of the Act.

BACKGROUND

[2] The Applicant was born on 7 August 1963 in Dominica. She is a dual citizen of Dominica and Antigua and arrived in Canada on 22 May 1999. When she moved to Canada, the Applicant's seventeen-year-old son remained behind in Dominica.

[3] After she arrived in Canada, the Applicant began to upgrade her education by taking several language, computer, paralegal, administrative assistant, and civil litigation training courses. Since 2002 she has been employed as a legal assistant by a company who provides support services for various law firms. From 2002 to 2007, the Applicant also worked weekends cleaning homes.

[4] The Applicant submitted her H&C application on 31 July 2008. In her initial submissions, she relied on her work and education to demonstrate her establishment in Canada. She also provided letters which showed volunteer activities and charitable donations and submitted a copy of an insurance policy, numerous letters of support, information on her savings, and information demonstrating her involvement with her church.

[5] The Applicant said she would face hardship if she were removed from Canada because the financial support she has provided to members of her family in Dominica would end. She said she supports her mother, who is partially blind. If she returned to Dominica, her employment prospects would be modest and she would be unable to support her family. She also noted that she would suffer hardship from separation from her social network in Canada.

DECISION UNDER REVIEW

[6] The Decision in this case consists of a letter the Officer mailed to the Applicant on 3 June 2011 (Refusal Letter) and the Officer's notes to file (Notes).

[7] The Officer noted that the Applicant holds citizenship in Antigua from where a visa is not required to travel to Canada. She also noted that the Applicant did not apply for or receive authorization to enter Canada. The Applicant also did not report for examination by immigration officials when she arrived in Canada. The Officer found the Applicant attended school and worked in Canada without applying for a work or study permit. The H&C application was her first application for permanent residence.

[8] The Officer reviewed the educational upgrades the Applicant has completed since 2002 and gave weight to the fact that she worked full-time while she pursued her studies. The Officer noted that the Stratford Career Institute, where the Applicant obtained a diploma for Legal Assistant/Paralegal studies in 2006, was a non-accredited correspondence school.

[9] The Officer found the Applicant did not clearly set out her financial situation in her application. The evidence she provided only showed modest savings in her bank account and did not show the frequency or the nature of activity in that account. The Officer also noted that, although the Applicant claimed that the majority of her money was sent to family members, the most recent evidence of transfers was from 16 July 2007. The Officer also found the Applicant provided no evidence to prove her mother's medical condition and the costs associated with it. It was not clear from her submissions if the Applicant had filed taxes in Canada.

[10] The Officer looked at the Applicant's time spent in Canada, her self-reliance and her close friendships and bonds to the community, but found the Applicant had provided insufficient evidence that she could not continue her friendships from abroad. The Officer further found the upgrades to her education and her work experience gained in Canada would help ease her transition if she returned to Antigua or Dominica. The Applicant has been an independent, hard-working, positive role model within her community, and there was no reason why this disposition would not carry over to her returned country.

[11] The Officer was not satisfied that the Applicant would face unusual or undeserved or disproportionate hardship if returned to Dominica or Antigua, so she refused the H&C application on 3 June 2011.

STATUTORY PROVISIONS

[12] The following provisions of the Act are applicable in these proceedings:

Application before entering Canada	**Visa et documents**
11. (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.	**11.** (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.
[…]	[…]

Humanitarian and compassionate considerations — request of foreign national	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger**
25. (1) The Minister must, on request of a foreign national in Canada who is inadmissible or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	**25.** (1) Le ministre doit, sur demande d'un étranger se trouvant au Canada qui est interdit de territoire ou qui ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

ISSUES

[13] The Applicant raises the following issues:

a. Whether the Officer's reasons are adequate;

b. Whether the Officer's Decision was reasonable.

STANDARD OF REVIEW

[14] The Supreme Court of Canada in *Dunsmuir v New Brunswick* 2008 SCC 9, held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of

review applicable to a particular question before the court is well-settled by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless must the reviewing court undertake a consideration of the four factors comprising the standard of review analysis.

[15] Recently, in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)* 2011 SCC 62, the Supreme Court of Canada held at paragraph 14 that the adequacy of reasons is not a stand-alone basis for quashing a decision. Rather, "the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes." The first issue in this case must therefore be analysed along with the reasonableness of the Decision as a whole.

[16] In *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, the Supreme Court of Canada held that when reviewing an H&C decision, "considerable deference should be accorded to immigration Officers exercising the powers conferred by the legislation, given the fact-specific nature of the inquiry, its role within the statutory scheme as an exception, the fact that the decision-maker is the Minister, and the considerable discretion evidenced by the statutory language" (paragraph 62). Justice Michael Phelan followed this approach in *Thandal v Canada (Minister of Citizenship and Immigration)*, 2008 FC 489, at paragraph 7. The standard of review on the second issue is reasonableness.

[17] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with "the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." See *Dunsmuir*, above, at paragraph

47, and *Canada (Minister of Citizenship and Immigration) v Khosa* 2009 SCC 12 at paragraph 59. Put another way, the Court should intervene only if the Decision was unreasonable in the sense that it falls outside the "range of possible, acceptable outcomes which are defensible in respect of the facts and law."

ARGUMENTS

The Applicant

Inadequate reasons

[18] The Applicant argues that the Officer conducted a fairly thorough review of the facts in this case, but did not provide much analysis. She points to *Adu v Canada (Minister of Citizenship and Immigration)* 2005 FC 565 (QL) at paragraph 14, where Justice Anne Mactavish said that

> In my view, these 'reasons' are not really reasons at all, essentially consisting of a review of the facts and the statement of a conclusion, without any analysis to back it up. That is, the officer simply reviewed the positive factors militating in favour of granting the application, concluding that, in her view, these factors were not sufficient to justify the granting of an exemption, without any explanation as to why that is. This is not sufficient, as it leaves the applicants in the unenviable position of not knowing why their application was rejected.

[19] The Applicant also cites *Vancouver International Airport Authority v Public Service Alliance of Canada* 2010 FCA 158 at paragraph 16 and says the Officer's reasons do not fulfill any of the purposes that reasons must meet.

[20] She points to three factors which the Officer considered and which demonstrate the reasons are inadequate. First, the Officer did not explain why she thought the Applicant did not report for examination upon entering Canada. Second, the Officer did not explain why the school the

Applicant attended should have been accredited. Third, the Officer did not explain why the Applicant's financial situation was unclear, given the documentation she submitted.

The H&C determination was unreasonable

[21] The Applicant points to several of the Officer's findings of fact which she says are in error. Together, these errors mean the Decision was unreasonable.

[22] First, the Officer listed in the Notes "Julia Williams" and "Olisha Williams" as two of the Applicant's relatives in Canada. The Applicant says these women are unknown to her but acknowledges this error may not have affected the overall nature of the Decision.

[23] Second, the Officer noted that the Applicant, as a national of Antigua and Dominica, did not receive authorization to enter Canada or report for examination when she entered Canada. The Applicant says that because she is a national of Antigua, for which there is no visa requirement, she did not require authorization to enter. The Officer unreasonably characterized her manner of entry as wrong-doing. An immigration official stamped the Applicant's passport upon entry, which illustrates that she did appear for examination. The Officer's conclusion on this issue is not supported by the evidence.

[24] The Officer also relied on irrelevant considerations. In particular, the Officer found the Applicant has attended school and worked without applying for a work or study permit. The Applicant says a successful application for an H&C exemption would allow her to obtain a work or study permit; she submitted her H&C application in part to overcome various non-compliances with the Act. The Applicant cites *Husain v Canada (Minister of Citizenship and Immigration)* 2011 FC

451 and says the Officer did not appreciate how the *Interpretation Act*, RSC 1985, c I-21 says that "Every enactment is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects." The Officer did not understand the task which was before her.

[25] The Applicant notes the Officer gave positive weight to her full-time work while she studied with the Stratford Institute, but then gave less weight to this factor because the Stratford Institute is a non-accredited correspondence school. A school's accreditation is not relevant to establishment in Canada. The Applicant suggests the Officer confused the analysis of her H&C application with a skilled worker application for which accreditation is required.

[26] The Applicant further says the Officer based some conclusions on irrelevant considerations. *Kalansyriyage v Canada (Minister of Citizenship and Immigration)* 2011 FC 183; *Gonzalez v Canada (Minister of Citizenship and Immigration)* 2011 FC 389; *Strulovits v Canada (Minister of Citizenship and Immigration)* 2009 FC 435 at paragraph 40; and *Grewal v Canada (Minister of Citizenship and Immigration)* 2003 FC 960 at paragraph 9 all establish that basing a decision on irrelevant considerations is a reviewable error.

[27] The Officer ignored important evidence when she found the Applicant's financial situation was unclear, that there was no information she continues to support her mother and that there was nothing to substantiate her mother's medical condition. The Officer ignored financial information submitted in the original application and also ignored the Applicant's updated submissions. Her updated submissions include a letter from her sister which proves she supports her family and that her mother has a medical condition. The Officer ignored this letter. The Officer's failure to mention

this evidence in the Decision and take it into account makes the Decision unreasonable. See *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425.

[28] The Officer did not properly consider as contributing to her establishment the following factors the Court set out in *Brar v Canada (Minister of Citizenship and Immigration)* 2011 FC 691 at paragraph 64:

> 1. Does the applicant have a history of stable employment?
>
> 2. Is there a pattern of sound financial management?
>
> 3. Has the applicant remained in one community or moved around?
>
> 4. Has the applicant integrated into the community through involvement in community organizations, voluntary services or other activities?
>
> 5. Has the applicant undertaken any professional, linguistic or other studies that show integration into Canadian society?
>
> 6. Do the applicant and their family members have a good civil record in Canada?

[29] The Officer treated these factors in a cursory way by discounting the Applicant's work history and other establishment factors and by giving them no weight. This renders the Decision unreasonable. The Applicant also cites *Raudales v Canada (Minister of Citizenship and Immigration)* 2003 FCT 385 (QL) at paragraph 19 for the proposition that a proper establishment assessment is required for an H&C decision to be reasonable.

The Respondent

Reasons

[30] The Respondent argues that the reasons in this case are more than sufficient for the Court to understand and review the Decision. The Officer's reasons also show the Applicant why the Officer denied her application. The Officer identified inadequacies and gaps in the evidence provided by the Applicant. The Respondent cites *Jeffrey v Canada (Minister of Citizenship and Immigration)* 2006 FC 605 at paragraph 27 and says this case should be decided similarly:

> The applicant's submission that the reasons in this case are inadequate ultimately comes down to this: that the officer must explain why the applicant's removal will not cause him unusual, undeserved or disproportionate hardship. That is what he appears to take from *Adu* which he describes as being on all fours with this application. With respect, I cannot agree. In *Adu*, the applicant could not have understood the reasons why his H&C application was refused, as the officer only pointed to the strengths of his position. In this case, the officer pointed to the inadequacies of the application. The applicant would not be left in any doubt as to why it was refused.

The H&C determination was reasonable

[31] The H&C process is designed to provide discretionary relief from unusual, underserved or disproportionate hardship, not to supplement the statutory process as another method of staying in Canada. See *Irimie v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 1906 at paragraph 26.

[32] Although the Officer mentioned unrelated women as two relatives in the Notes, this was a typographical error with no relevance to the Decision. The Respondent points to page 4 of the Notes where the Officer wrote that the "applicant has no family living in Canada." The Officer was clearly

aware the Applicant had no family in Canada and there is no evidence this error played any part in her Decision.

[33] The Applicant mischaracterizes the Officer's statement that she did not report for examination upon entering Canada. Although the Applicant is correct to say she reported for a primary examination and was allowed into Canada as a visitor in 1999, the Officer understood this. What the Officer meant was that the Applicant had not reported for examination for the purpose of receiving permission to remain in Canada beyond her allotted visitor time.

[34] The Respondent also points out that the Officer's statement that the Stratford Institute is not accredited is correct. The Applicant has not shown this was a significant factor in the Decision. A diploma from non-accredited school is not comparable to one from an accredited school, so it was relevant to point out this fact. The Officer gave some weight to the Applicant's studies.

[35] The Officer did not ignore evidence. A decision-maker is presumed to have considered all the evidence unless the contrary can be shown. The Applicant has not show this is the case here. The evidence the Applicant asserts the Officer ignored was either clearly not ignored or was not sufficiently objective to support what the Applicant asserted.

[36] The Officer mentioned all of the evidence the Applicant provided to show her financial situation, but found it was insufficient to support her claims. The Officer also understood the evidence relevant to the Applicant's financial support for her family and her mother's medical condition but found this was insufficient to demonstrate her claims.

[37] The Officer fully considered the Applicant's establishment and integration into Canada but found that it was insufficient to demonstrate that unusual and undeserved, or disproportionate hardship would result if her H&C request was refused. Consideration of an applicant's establishment is not mandatory, and if considered is not determinative (see *Irimie*, above at paragraph 20 and *Samsonov v Canada (Minister of Citizenship and Immigration)* 2006 FC 1158 at paragraphs 16 to 18).

[38] The Respondent also argues that *Raudales*, above and *Jamrich v Canada (Minister of Citizenship and Immigration)* 2003 FCT 804 do not support the Applicant's position as they stand for the proposition that establishment is a relevant factor and must be properly considered. In the present case, the Officer considered this factor and gave reasons why it did not constitute a sufficient ground for allowing the application.

[39] The Officer was also fully entitled to consider that the Applicant has worked and studied in Canada without being authorized to do so (see *Tartchinska v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 373 (QL) at paragraphs 20 to 22).

ANALYSIS

[40] In *Newfoundland and Labrador*, above, at paragraphs 12 to 16, the Supreme Court of Canada recently provided the following guidance that is relevant to the case before me:

> It is important to emphasize the Court's endorsement of Professor Dyzenhaus's observation that the notion of deference to administrative tribunal decision-making requires "a respectful attention to the reasons offered or which could be offered in support of a decision". In his cited article, Professor Dyzenhaus explains how reasonableness applies to reasons as follows:

> "Reasonable" means here that the reasons do in fact or in principle support the conclusion reached. That is, even if the reasons in fact given do not seem wholly adequate to support the decision, the court must first seek to supplement them before it seeks to subvert them. For if it is right that among the reasons for deference are the appointment of the tribunal and not the court as the front line adjudicator, the tribunal's proximity to the dispute, its expertise, etc, then it is also the case that its decision should be presumed to be correct even if its reasons are in some respects defective. [Emphasis added.]
>
> (David Dyzenhaus, "The Politics of Deference: Judicial Review and Democracy", in Michael Taggart, ed., *The Province of Administrative Law* (1997), 279, at p. 304)

See also David Mullan, "*Dunsmuir v. New Brunswick*, Standard of Review and Procedural Fairness for Public Servants: Let's Try Again!" (2008), 21 *C.J.A.L.P.* 117, at p. 136; David Phillip Jones, Q.C., and Anne S. de Villars, Q.C., *Principles of Administrative Law* (5th ed. 2009), at p. 380; and *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339, at para. 63.

This, I think, is the context for understanding what the Court meant in *Dunsmuir* when it called for "justification, transparency and intelligibility". To me, it represents a respectful appreciation that a wide range of specialized decision-makers routinely render decisions in their respective spheres of expertise, using concepts and language often unique to their areas and rendering [page715] decisions that are often counter-intuitive to a generalist. That was the basis for this Court's new direction in *Canadian Union of Public Employees, Local 963 v. New Brunswick Liquor Corp.*, [1979] 2 S.C.R. 227, where Dickson J. urged restraint in assessing the decisions of specialized administrative tribunals. This decision oriented the Court towards granting greater deference to tribunals, shown in *Dunsmuir's* conclusion that tribunals should "have a margin of appreciation within the range of acceptable and rational solutions" (para. 47).

Read as a whole, I do not see *Dunsmuir* as standing for the proposition that the "adequacy" of reasons is a stand-alone basis for quashing a decision, or as advocating that a reviewing court

> undertake two discrete analyses - one for the reasons and a separate one for the result (Donald J. M. Brown and John M. Evans, *Judicial Review of Administrative Action in Canada* (loose-leaf), at ss.12: 5330 and 12: 5510). It is a more organic exercise - the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes. This, it seems to me, is what the Court was saying in *Dunsmuir* when it told reviewing courts to look at "the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes" (para. 47).
>
> In assessing whether the decision is reasonable in light of the outcome and the reasons, courts must show "respect for the decision-making process of adjudicative bodies with regard to both the facts and the law" (*Dunsmuir*, at para. 48). This means that courts should not substitute their own reasons, but they may, if they find it necessary, look to the record for the purpose of assessing the reasonableness of the outcome.
>
> Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion (*Service Employees' International Union, Local No. 333 v. Nipawin District Staff Nurses Assn.*, [1975] 1 S.C.R. 382, at p. 391). In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.

[41] A helpful summary of the applicable principles is also found in *Lee v Canada (Minister of Citizenship and Immigration)* 2005 FC 413 at paragraph 7:

> Keeping in mind that the standard of review is that of reasonableness simpliciter, I would also add the comments of my colleague, Justice Layden-Stevenson in *Agot v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 436, [2003] F.C.J. No. 607:
>
> > It is useful to review some of the established principles regarding H&C applications. The decision of the ministerial delegate with respect to

> an H&C application is a discretionary one: *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 (*Baker*). The standard of review applicable to such decisions is that of reasonableness simpliciter: *Baker*. The onus, on an application for an H&C exemption, is on the applicant: *Owusu v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 94, [2003] F.C.J. No. 139 per Gibson J. citing *Prasad v. Canada (Minister of Citizenship and Immigration)* (1996), 34 Imm. L.R. (2d) 91 (F.C.T.D.) and *Patel v. Canada (Minister of Citizenship and Immigration)* (1997), 36 Imm. L.R. (2d) 175 (F.C.T.D.). The weighing of relevant factors is not the function of a court reviewing the exercise of ministerial discretion: *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 3; *Legault v. Canada (Minister of Citizenship and Immigration)*, [2002] 4 F.C. 358 (C.A.) (*Legault*). The ministerial guidelines are not law and the Minister and her agents are not bound by them, but they are accessible to the public and the Supreme Court has qualified them as being of great assistance to the court: *Legault*. An H&C decision must be supported by reasons: *Baker*. It is inappropriate to require administrative officers to give as detailed reasons for their decisions as may be expected of an administrative tribunal that renders its decisions after an adjudicative hearing: *Ozdemir v. Canada (Minister of Citizenship and Immigration)* (2001), 282 N.R. 394 (F.C.A.).

[42] In reviewing the Decision as a whole, I have to agree with the Respondent's assessment that, to quote Justice Pierre Blais in *Jeffrey*, above, at paragraph 27, the "Applicant would not be left in any doubt as to why it was refused."

[43] As the reasons make clear, the Applicant failed to provide sufficient evidence to establish that an exemption was warranted. The Decision is responsive to the Applicant's submissions, the evidence she adduced and the principles applicable to an H&C application. For example, the Officer

was entirely correct to point out that there is insufficient evidence to show clearly what her financial situation is in Canada, or what her mother's situation is in Dominica. The onus is upon the Applicant to establish her case for an exemption. She failed to do so.

[44] None of the matters raised by the Applicant materially impact the Decision in a way that renders it unreasonable. There is nothing in the facts put forward by the Applicant to suggest any kind of exceptional establishment in Canada.

[45] The words of Justice Marc Nadon in *Tartchinska*, above, at paragraphs 21 to 22, are relevant to much of what the Applicant has done in the present case:

> More importantly, the Guidelines certainly do not suggest that an applicant must pursue self-sufficiency at all cost and without regard to the means. I therefore disagree with the Applicants' argument that "[i]t is irrelevant whether self-sufficiency is pursued with or without a work permit." In my opinion, the source of one's self-sufficiency is very relevant; otherwise, anyone could claim an exemption on the basis of self-sufficiency even if that self-sufficiency derived from illegal activities. I appreciate that in this case the Applicants worked honestly, albeit illegally. Nonetheless, the Applicants knowingly attempted to circumvent the system when they chose to continue working without authorization. Indeed, despite being told during their first interview that they were not authorized to work and that they should cease, there was no indication that the Applicants had given up their employment at the time of the second interview. Moreover, their lawyer had cautioned them about the risks of working without a work permit as well as on the ostensible benefit of showing self-sufficiency (regardless of its source), and they chose to remain in Canada and work illegally.
>
> I understand that the Applicants hoped that accumulating time in Canada despite a departure order against them might be looked on favourably insofar as they could demonstrate that they have adapted well to this country. In my view, however, applicants cannot and should not be "rewarded" for accumulating time in Canada, when in fact, they have no legal right to do so. In a similar vein, self-sufficiency should be pursued legally, and an applicant should not be able to invoke his or her illegal actions to subsequently claim a benefit such as a Ministerial exemption. Finally, I take note of the

> obvious: the purpose of the exemption, in this case, was to exempt the Applicants from the requirement of applying for status from abroad, not to exempt them from other statutory provisions such as the requirement of a valid work permit.

[46] The Applicant is naturally disappointed that her application was not successful and her situation invites considerable sympathy. However, I cannot interfere with an H&C decision based upon sympathy alone. I can find no reviewable error.

[47] Counsel agree there is no question for certification and the Court concurs.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. There is no question for certification.

"James Russell"
Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	IMM-4114-11
STYLE OF CAUSE:	**JEANNE JNOJULES**
	- and -
	THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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DATED:	May 4, 2012

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