

Federal Court



Cour fédérale

**Date: 20121204**

**Docket: IMM-1389-12**

**Citation: 2012 FC 1414**

**Ottawa, Ontario, December 4, 2012**

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

**BETWEEN:**

**OLUWASEUN COMFORT OLORUNTOBA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The decision of a visa officer of the High Commission of Canada in Lagos, Nigeria, dated December 3, 2011, refusing Ms. Oloruntoba's application for a study permit in Canada was unreasonable and is set aside.

[2] Ms. Oloruntoba is a citizen of Nigeria, and the daughter of a high-ranking officer of The Salvation Army. In early 2010, Ms. Oloruntoba applied for acceptance into a Bachelor of Arts program in English and film offered at The Salvation Army William and Catherine Booth

University College of Winnipeg, Manitoba (“Booth University College”). She was accepted, and subsequently applied for a study permit with the Canadian visa office in Lagos, Nigeria.

[3] In January 2011, her application was rejected. In that decision, the visa officer’s reason for refusing the permit was that the officer was not persuaded that Ms. Oloruntoba was a *bona fide* student.

[4] In April 2011, the legal office of The Salvation Army, Canada and Bermuda Territory, filed a second application with the Canadian visa office in Lagos, Nigeria, on Ms. Oloruntoba’s behalf. This application was supported by, among other things, letters from the President of Booth University College, Mr. Donald Burke, and the Territorial Commander of The Salvation Army, Canada and Bermuda Territory, Mr. William Francis.

[5] Mr. Burke confirmed Ms. Oloruntoba’s admission and that Booth University College evaluated Ms. Oloruntoba’s academic performance (which he said did not raise any concerns for the admissions office), her life experience, cultural background, language skills and interest in the chosen field of study. Mr. Burke did not hesitate in saying that Ms. Oloruntoba was a *bona fide* applicant for enrolment in the academic program chosen.

[6] Mr. Francis wrote, among other things, that Ms. Oloruntoba was receiving a scholarship of \$16,000 and a return ticket to Nigeria every year, and that “[t]o continue receiving the scholarship, [Ms. Oloruntoba] would have to remain a student in good standing at Booth University College.” Mr. Francis further stated that he was aware that Ms. Oloruntoba’s

previous study permit application had been denied, that he had “encouraged [her] to make another study permit application,” and that he believed that she would “be a valuable addition to the student body.”

[7] This second application was again rejected. The rejection letter provided to Ms. Oloruntoba was a form letter. The reasons provided in that letter as to why her application was rejected were as follows:

[x] You have not satisfied me that you would leave Canada at the end of your stay. In reaching this decision, I considered several factors, including:

...

[x] Purpose of Visit

[no other factors checked]

[...]

[x] Other reasons:

I AM NOT SATISFIED YOU ARE A BONA FIDE STUDENT. NO EVIDENCE OF ACADEMICS SINCE 2006.

[8] Following this application for leave and judicial review, the respondent disclosed a one-page document which contains the notes of several reviewing officers over the period June 30, 2011, to December 3, 2011. The officer to first conduct a substantive review, on October 20, 2011, recommended an internal review for *bona fides* because Ms. Oloruntoba had been academically inactive for five years. On December 3, 2011, which represents the next and final entry, the following notes were made by the officer:

“The Salvation Army has provided a letter for the applicant in support of education due to her father being posted to another country. So what happens when his posting ends prior to her education? I believe the support will also terminate. It is also evident that the medical condition of the applicant, although not medically inadmissible, she is likely to remain in Canada should her condition become worse, particularly if it effects her studies

[sic]. The program selected does not appear to be one that the applicant shows a history of pursuit. In fact, there is no evidence of any academics since WEAC results 2006. She claims that since 2006 she has been studying on her own. No evidence of any correspondence or distance learning. BF as a student is in doubt. Should the applicant be allowed to enter Canada I have doubts she would leave after an authorised stay. Refused. [emphasis added]

[9] The officer ignored clear evidence addressing Ms. Oloruntoba's source of funding and the decision was therefore unreasonable. As this was apparently a central reason for dismissing her application for a study permit, notwithstanding the checked box on the form letter, the decision must be quashed. The officer's "belief" that support from the scholarship would terminate upon the termination of Ms. Oloruntoba's father's posting runs completely contrary to Mr. Francis' letter. Either the officer did not actually read the letter or he did but failed to address it. In either case, the decision is unreasonable in the face of the evidence before the officer.

[10] No question was offered for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application is allowed, the decision under review is quashed, and the application for a study permit is to be considered by a different officer.

"Russel W. Zinn"

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Judge

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

**DOCKET:** IMM-1389-12

**STYLE OF CAUSE:** OLUWASEUN COMFORT OLORUNTOBA v. THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** October 30, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** ZINN J.

**DATED:** December 4, 2012

**APPEARANCES:**

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