Federal Court  Cour fédérale

Date: 20250507

Docket: IMM-6280-24

Citation: 2025 FC 834

Ottawa, Ontario, May 7, 2025

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

COLLINS ISIBOR

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. Collins Isibor [Applicant] seeks judicial review of a decision of a Senior Immigration Officer [Officer] refusing his application for permanent residence on humanitarian and compassionate grounds [H&C] under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The Officer refused the application after having assessed his establishment in Canada, hardship and conditions in his home country of Nigeria, and the best interests of his children, all of whom still reside there. The Officer concluded that his application on H&C grounds should be dismissed because his establishment and integration in Canada were limited, four of his five children were adults (all living in Nigeria), and the Applicant had no personal fear of persecution upon his return to Nigeria.

[3] The applicable standard of review is reasonableness (*Braud v Canada (Citizenship and Immigration*), 2020 FC 132 at para 24; *Henry-Okoisama v Canada (Citizenship and Immigration)*, 2024 FC 1160 at para 15 [*Henry-Okoisama*]).

[4] The Applicant argues that the Officer failed to consider his employment income and made an egregious error of fact that could well have had a material impact on the outcome of the decision. The Officer noted in their reasons that the Applicant had not provided "any proof of income," yet the Officer also noted the Applicant's employer's letter noting that his salary was of $39,520 per annum (Certified Tribunal Record at 8 [CTR]). Because the Officer failed to provide an explanation as to why "pay stubs, bank statement and Notices of assessment" were required as proof of income, their decision is unintelligible.

[5] The Applicant also argues that the Officer applied an elevated "exceptionality" threshold in assessing his establishment in Canada. Specifically, the Applicant claims that the Officer failed to properly apply the test set out in *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 and instead required an exceptional or unusual level of establishment as a condition for

H&C relief (relying on *Galindo Caballero v Canada (Citizenship and Immigration)*, 2024 FC 642 at paras 8, 14 [*Galindo*]). Indeed, by using phrases such as "exceptional circumstances," "extraordinary circumstances," "where no other pathway is feasible," and "serious risk of great hardship" (CTR at 20), the Officer imposed an inappropriately high standard of proof.

[6] With respect to the argument on the Applicant's income, in my view, the Officer properly examined the evidence and noted his employer's letter along with his annual income. The Officer simply noted that the Applicant's work history was limited, and did not submit any other evidence to demonstrate his income. In my view, the Officer's note that additional evidence could have been adduced to prove his income does not impact the Officer's overall assessment of the Applicant's establishment in Canada, because all the other factors noted in that regard by the Officer (lack of integration or participation in leisure, social or cultural activities in Canada) pointed to a very limited establishment. I disagree that the Officer's comments regarding proof of income constitute an error of fact and in any event, that shortcoming is insufficient for the Court to lose confidence in the outcome reached (*Vavilov* at paras 122, 194).

[7] In relation to the alleged elevated "exceptionality" threshold applied by the Officer, I agree with the Respondent that even if the Officer used the terms "exceptional" and "extraordinary" in their reasons, the use of these terms does not demonstrate that the Officer applied the "exceptionality standard."

[8] As held by Justice Turley in *Galindo* at paragraph 13:

> [13] In other words, simply characterizing an applicant's level of establishment as "usual," "ordinary," or "common" is insufficient

> to vitiate an officer's decision. However, what is problematic is using these terms to invoke or impose a threshold of exceptionality on an applicant. Each case will therefore necessarily turn on an assessment of the H&C officer's use of such terms in context to determine whether they are used descriptively (which is reasonable) or as a legal test (which is not reasonable): *Del Chiaro Pereira* at para 55; *Asu v Canada (Citizenship and Immigration)*, 2022 FC 661 at para 10 [*Asu*]; *Al-Abayechi* at para 15; *Damian* at para 21. [emphasis added]

[9] In this case, the Officer used the terms in a descriptive manner and not as a legal test requiring an exceptional or unusual establishment as a condition for obtaining H&C relief. All of the phrases noted above are found in the same paragraph of the Officer's reasons, in which the Officer describes the H&C application process as a pathway to permanent residency that is "exceptional" in the sense that it provides a flexible and responsive "exception" to the ordinary operation of the IRPA (see *Henry-Okoisama* at paras 36, 47).

[10] Therefore, in my view, the Officer did not apply an elevated "exceptionality" threshold. Instead, the Officer ruled, in the very next paragraph of their reasons, that "[t]he applicant has demonstrated only a minimal level of establishment and integration into the Canadian economy and into his community" (CTR at 20). That finding was reasonable on the basis of the evidence adduced and the arguments raised by the Applicant.

[11] The two arguments raised by the Applicant essentially extract a few words used by the Officer in their reasons, leaving them remote from the entire context of the decision as a whole. Respectfully, in doing so, the Applicant is inviting this Court to embark upon a "treasure hunt for error" (*Vavilov* at para 102), which the Court does not accept.

[12] Consequently, the Officer's decision is reasonable. The Application for judicial review is dismissed; there is no question for certification.

JUDGMENT in IMM-6280-24

THIS COURT'S JUDGMENT is that:

1. The Application for judicial review is dismissed;

2. There is no question for certification.

"Guy Régimbald"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6280-24
STYLE OF CAUSE:	COLLINS ISIBOR v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
JUDGMENT AND REASONS:	RÉGIMBALD J.
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