Federal Court  Cour fédérale

Date: 20150226

Docket: IMM-4611-13

Citation: 2015 FC 242

Ottawa, Ontario, February 26, 2015

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

ISABEL PATRICIA ARELLANO HOFFMAN
ANDRES ALFREDO IZQUIERDO ARRIETA
ANA PATRICIA IZQUIERDO ARRELANO
PAMELA IZQUIERDO ARELLANO

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

ORDER AND REASONS

[1] Isabel Patricia Arellano Hoffman [the Principle Applicant], Andres Alfredo Izquierdo Arrieta [the Male Applicant], and their two adult daughters, Pamela and Ana [the Daughters], collectively [the Applicants], are citizens of Peru whose request for permanent resident status on humanitarian and compassionate [H&C] grounds was refused in a decision dated June 5, 2013 [the Decision]. This application for judicial review is brought pursuant to section 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] On March 19, 2008, after eight years in the United States, the Applicants entered Canada and made refugee claims based on their fear of the Shining Path. On December 15, 2011, the Refugee Protection Division denied their refugee claims and this Court has since denied leave to judicially review that decision.

[3] On April 05, 2012, the Applicants made the application on H & C grounds which led to the Decision at issue in this case.

I. The Decision

[4] The Officer noted the Male Applicant's concern that he would face discrimination in his search for employment due to his age, and the concern that the Daughters, who are now paying their own Canadian university tuition, will not be able to afford university in Peru and will face discrimination as women entering Peru's workforce.

[5] The Officer also noted that the Principle and Male Applicants have both worked during their five years in Canada; have studied English, have managed their finances well; have attended church, and that the Male and Principle Applicants have received "many" letters of support from family, co-workers and friends.

[6] The Officer further noted that the Applicants have family in Canada and extended family in Peru. She was also aware that the Daughters have a limited knowledge of Spanish.

[7] However, the Officer concluded that a university education is not a right in Peru or in Canada, and that country conditions in Peru will not negatively impact the Applicants to the level of unusual, undeserved or disproportionate hardship. She also concluded that the Applicants' establishment in Canada did not mean that their departure would lead to unusual undeserved or disproportionate hardship, and that the Applicants' family and employers would not experience such hardship if the Applicants left Canada.

[8] Finally, the Officer concluded that since the Daughters are adults in their twenties, a "best interests of the child" analysis was not required.

II. Discussion

[9] The Applicants criticize the Officer's Decision for failing to mention and discuss the following:

i. their numerous letters of support;
ii. the exceptional nature of their establishment;
iii. the hardship faced by a dependant friend;
iv. the fact that they have family in both British Columbia and Ontario;
v. the Male Applicant's employer's concern about the difficulty he would have replacing him;
vi. the impact on the Daughters of discrimination against women in Peru;
vii. the Daughters' personal circumstances which include growing up and studying successfully in the English language over 13 years; and.
viii. the hardship caused by the linguistic and financial difficulties the Daughters will face in trying to continue their university studies in Peru.

[10] However, notwithstanding the fact that not all the topics were discussed at length, it is my conclusion that the Decision shows that the Officer appreciated all these facts but was nevertheless not persuaded that the H & C application should be allowed.

III. Conclusion

[11] I can only interfere with the Decision if I am able to conclude that it is unreasonable in the sense that it falls outside a range of acceptable outcomes which are defensible in respect of the facts and law. While the Decision creates an unfortunate situation for this family, I cannot say that it is unreasonable. The application will therefore be dismissed.

IV. Certification for Appeal

[12] No question was posed for certification.

ORDER

THIS COURT ORDERS that, for the reasons given above, this application for judicial review is hereby dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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