Federal Court Cour fédérale

Date: 20160722

Docket: IMM-3026-15

Citation: 2016 FC 862

Ottawa, Ontario, July 22, 2016

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

LLANA MAGNOLA POMPEY

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. INTRODUCTION

[1] This is an application under s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] for judicial review of a decision of an officer [Officer or Minister's Delegate] of Canada Border Services Agency [CBSA] dated June 9, 2015 [Decision], which issued an exclusion order against the Applicant.

II. BACKGROUND

[2] The Applicant was born on September 9, 1971 and is a citizen of St. Vincent and the Grenadines. She entered Canada at Pearson International Airport in Toronto on October 23, 2010 with a visitor's visa that authorized her to stay for six months. The Applicant's visa expired in April 2011, but she has remained continuously in Canada, without legal status, since that time.

[3] The Applicant now says she came to Canada to escape the abuse and ongoing assaults of her common law husband. She claims she once went to the police for aid, but was beaten by her husband when she returned home. She did not seek out the help of the authorities and, instead, took matters into her own hands. With the assistance of her sister, who lives in Canada, she left her two children in St. Vincent in the care of her father and left for Canada on October 20, 2010.

[4] Once in Canada, the Applicant says she began to work illegally in a factory in order to support her two children back home. She says she did not know that she could claim refugee status in Canada, and so she never did. The Applicant has learned from her children that her husband, embarrassed that his wife abandoned him, has said he will "get his day" when she is returned home. She says that her husband has been involved in many violent altercations, including one in which he cut off his uncle's hand with a machete. She says that she could be killed at his hands if she goes back to St. Vincent.

[5] On June 8, 2015, the Applicant was arrested at her place of employment by CBSA. At the time of her arrest, she allegedly told the officer that she had been sending money home and had no fears of returning there.

[6] On June 9, 2015, following her interview with the Minister's Delegate, an exclusion order was made against the Applicant.

[7] On June 26, 2015, the Applicant filed an application for leave and judicial review challenging the Decision.

[8] The Applicant was scheduled for removal on February 6, 2016. The Respondent did not oppose a motion for a stay of removal filed by the Applicant on February 2, 2016 which Justice Zinn granted.

III. DECISION UNDER REVIEW

[9] The Decision under review consists of the exclusion order against the Applicant dated June 9, 2015 and the completed Minister's Delegate review form. These documents indicate that the Applicant is deemed inadmissible for failing to comply with the conditions imposed by the Act on temporary residents.

IV. ISSUES

[10] The Applicant raises the following issues:

1. Whether procedural fairness was breached in the making of the exclusion order;
2. Whether the Minister's Delegate reasonably made the exclusion order;
3. Whether there are special reasons to award costs.

V. STANDARD OF REVIEW

[11] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] 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 settled in a satisfactory manner by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless, or where the relevant precedents appear to be inconsistent with new developments in the common law principles of judicial review, must the reviewing court undertake a consideration of the four factors comprising the standard of review analysis: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 48.

[12] The first issue addresses procedural fairness and will be determined using the correctness standard of review: *Doe v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 518 at para 22; *Sanif v Canada (Public Safety and Emergency Preparedness)*, 2010 FC 115 at para 23. The second issue will be reviewed using the reasonableness standard: *Finta v Canada (Public Safety and Emergency Preparedness)*, 2012 FC 1127 at para 31.

[13] As regards the third issue raised by the Applicant, the Federal Court does not ordinarily award costs in immigration proceedings. As Rule 22 of the *Federal Courts Immigration and*

Refugee Protection Rules, SOR/93-22 provides, costs will not be awarded to or payable by any party in respect of an application for leave, an application for judicial review or an appeal under these Rules unless the Court, for special reasons, so orders. The Court has held repeatedly that the threshold to establish "special reasons" is high, but they may be found where one party has engaged in conduct which is unfair, oppressive, improper or actuated by bad faith or has unnecessarily or unreasonably prolonged proceedings: *Green v Canada (Citizenship and Immigration)*, 2016 FC 698; *Canada (Citizenship and Immigration) v A76*, 2014 FC 524 at para 31; *Johnson v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1262 at para 26.

[14] 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 para 47, and *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 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."

VI. STATUTORY PROVISIONS

[15] The following provisions of the Act are applicable in this matter:

Right of temporary residents	**Droit du résident temporaire**
29 (1) A temporary resident is, subject to the other provisions of this Act, authorized to enter	29 (1) Le résident temporaire a, sous réserve des autres dispositions de la présente loi,

and remain in Canada on a temporary basis as a visitor or as a holder of a temporary resident permit.

l'autorisation d'entrer au Canada et d'y séjourner à titre temporaire comme visiteur ou titulaire d'un permis de séjour temporaire.

Obligation — temporary resident

(2) A temporary resident must comply with any conditions imposed under the regulations and with any requirements under this Act, must leave Canada by the end of the period authorized for their stay and may re-enter Canada only if their authorization provides for re-entry.

Obligation du résident temporaire

(2) Le résident temporaire est assujetti aux conditions imposées par les règlements et doit se conformer à la présente loi et avoir quitté le pays à la fin de la période de séjour autorisée. Il ne peut y rentrer que si l'autorisation le prévoit.

…

…

Preparation of report

44 (1) An officer who is of the opinion that a permanent resident or a foreign national who is in Canada is inadmissible may prepare a report setting out the relevant facts, which report shall be transmitted to the Minister.

Rapport d'interdiction de territoire

44 (1) S'il estime que le résident permanent ou l'étranger qui se trouve au Canada est interdit de territoire, l'agent peut établir un rapport circonstancié, qu'il transmet au ministre.

Referral or removal order

(2) If the Minister is of the opinion that the report is well-founded, the Minister may refer the report to the Immigration Division for an admissibility hearing, except in the case of a permanent resident who is inadmissible solely on the grounds that they have failed to comply with the residency obligation under

Suivi

(2) S'il estime le rapport bien fondé, le ministre peut déférer l'affaire à la Section de l'immigration pour enquête, sauf s'il s'agit d'un résident permanent interdit de territoire pour le seul motif qu'il n'a pas respecté l'obligation de résidence ou, dans les circonstances visées par les règlements, d'un étranger; il

section 28 and except, in the circumstances prescribed by the regulations, in the case of a foreign national. In those cases, the Minister may make a removal order.	peut alors prendre une mesure de renvoi.

[16] The following provisions of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 are applicable in this matter:

Subsection 44(2) of the Act — foreign nationals	**Application du paragraphe 44(2) de la Loi : étrangers**
228 (1) For the purposes of subsection 44(2) of the Act, and subject to subsections (3) and (4), if a report in respect of a foreign national does not include any grounds of inadmissibility other than those set out in the following circumstances, the report shall not be referred to the Immigration Division and any removal order made shall be	228 (1) Pour l'application du paragraphe 44(2) de la Loi, mais sous réserve des paragraphes (3) et (4), dans le cas où elle ne comporte pas de motif d'interdiction de territoire autre que ceux prévus dans l'une des circonstances ci-après, l'affaire n'est pas déférée à la Section de l'immigration et la mesure de renvoi à prendre est celle indiquée en regard du motif en cause :
…	…
(c) if the foreign national is inadmissible under section 41 of the Act on grounds of	c) en cas d'interdiction de territoire de l'étranger au titre de l'article 41 de la Loi pour manquement à :
…	…
(iv) failing to leave Canada by the end of the period authorized for their stay as required by subsection 29(2) of the Act, an exclusion order,	iv) l'obligation prévue au paragraphe 29(2) de la Loi de quitter le Canada à la fin de la période de séjour autorisée, l'exclusion,
…	…

[17] The following provision of the *Federal Court Immigration and Refugee Protection Rules*, SOR/93-22 is applicable in this matter:

Costs	**Dépens**
22 No costs shall be awarded to or payable by any party in respect of an application for leave, an application for judicial review or an appeal under these Rules unless the Court, for special reasons, so orders.	22 Sauf ordonnance contraire rendue par un juge pour des raisons spéciales, la demande d'autorisation, la demande de contrôle judiciaire ou l'appel introduit en application des présentes règles ne donnent pas lieu à des dépens.

VII. ARGUMENTS

A. *Applicant*

(1) Procedural Fairness

[18] The Applicant says that the relevant manuals under which the exclusion order was issued are ENF 6: Review of Reports Under A44(1) and ENG 2/OP: Evaluating Inadmissibility. The Applicant submits that she had a legitimate expectation that the Minister's Delegate would carry out his function as set out in the manuals, but he dismally failed to do so: *Canada (Citizenship and Immigration) v Don*, 2014 FCA 4 at paras 50-54.

[19] The Applicant argues that it is clear that the Minister's Delegate should have been guided by factors that went unconsidered in this case. His failure to provide any details about his decision-making process is a barrier to understanding the Decision.

[20] By way of affidavit evidence, the Applicant recalls her experience with the Minister's Delegate as being rushed and lasting only five minutes. The Applicant says she has a limited education and was not given the opportunity to seek advice from anyone, be it lawyer or friend. She was asked if there was anything preventing her from going home. She says she interpreted the question as asking if there was anything in Canada that would prevent her return to St. Vincent. She was not asked whether she feared for her life or whether she wished to make a refugee claim. She says that had she been asked such things, she would have quickly told the Minister's Delegate about her husband and the danger he posed. She said she was given no opportunity to explain why she was in Canada, and no other questions were asked of her. She says that it is simply not true that she had no fear of returning to St. Vincent.

[21] The Minister's Delegate swore an affidavit on May 17, 2016, almost a year after the Decision was made, and the Applicant says the affidavit is an attempt to augment the record. The Court has recognized this type of evidence to be improper: *Eshraghian v Canada (Citizenship and Immigration)*, 2013 FC 828.

(2) Minister's Delegate's Jurisdiction

[22] The Applicant submits that the conduct of the Minister's Delegate reveals that, even before he began to consider her case, he was of the view that an exclusion order would be issued – it was a *fait accompli*. Therefore, it seems as though the Minister's Delegate approached his task with a closed mind, and fettered his discretion. The manuals do not make it mandatory that someone in the Applicant's position be excluded. Implicit in the power of the Minister's Delegate is the discretion not to issue a removal order.

[23] Specifically, the Minister's Delegate failed to do the following in accordance with the manuals:

- Explain to the Applicant before he convoked the hearing or during the hearing what the matter was about;
- Advise the Applicant that as a detainee at the Rexdale Immigration Detention Centre she had a right to counsel;
- Complete the Minister's Delegate Review form in many critical areas; and
- Ask the Applicant whether she wished to make a refugee claim.

(3) Costs

[24] As this is a unique case where CBSA showed significant resistance to common sense accommodations, the Applicant argues that there should be a finding of special reasons warranting the award of costs. The Applicant is seeking costs related to the motion she brought for a stay of removal which was consented to at the last minute. Counsel for the Applicant wrote to CBSA on several occasions beginning in July 2015, but did not receive a response until January 2016 when CBSA contacted the Applicant with a Call In Notice to report to CBSA for the purpose of scheduling her deportation. After counsel sought a deferral of the Applicant's removal so that she could have her risk assessed by the Refugee Protection Division, CBSA rejected the request. The Applicant says that it was clear that the officer who rejected this request knew that there had been no risk assessment completed, but appeared content to send the Applicant back to St. Vincent knowing full well she would likely face a risk to her life. The officer was reckless in the discharge of his duties, and the Applicant was left with no choice but to engage the Federal Court to seek a stay.

B. *Respondent*

(1) Procedural Fairness

[25] The Respondent says that in conducting the interview with the Applicant, the Minister's Delegate did not breach the principles of procedural fairness. The interview notes reflect that she was treated more than fairly: she was informed of the purpose of the interview; was asked if she wanted counsel; and was asked if she feared returning home. The Minister's Delegate swore an affidavit in response to the Applicant's allegations of a lack of procedural fairness, supplementing his interview notes which form part of the Decision. The Respondent says this evidence should be preferred over the Applicant's affidavit, sworn five months after her interview, as it reflects what transpired during the interview as set out in the notes: *Paracha v Canada (Minister of Citizenship and Immigration)*, [1997] FCJ No 1786 at paras 6-7. The Minister's Delegate makes it clear that, although he does not specifically remember the Applicant, the interview notes and his set practice reveal the following:

- He recorded the information provided by the Applicant on the Minister's Delegate Review form as the interview progressed.
- He was not rushed as he had only two cases that morning.
- The interview would have taken about 30 minutes, and certainly could not have been completed in 5 minutes.
- As per his practice, he took the Applicant through the allegations of overstaying her visa set out in the s 44(1) report to ensure that she understood what was being alleged against her.
- He asked, as he does in all cases, whether the Applicant wanted counsel and would not have proceeded with the interview had she indicated that she did.

- He asked, as he does in all cases, whether she had a fear of return. Had she indicated a fear of return, he would have initiated the paperwork for a refugee claim, as he has done in approximately 800 cases since beginning work as a Minister's Delegate 8 years ago.
- He did not make further notations regarding the evidence of inadmissibility on the Minister's Delegate Review form because the Applicant conceded the allegations regarding overstaying her visa. There was, therefore, no need to repeat the same information on the next page.
- He made the decision to issue the exclusion order and printed the order during the course of the interview. He went through the order with the Applicant and also explained her right to seek judicial review. The Applicant signed the exclusion order and the document regarding her right to seek judicial review and the timelines involved.

[26] The Minister's Delegate's affidavit is not, as the Applicant alleges, improper. While he may not supplement the reasons in the Decision, he is entitled to submit additional evidence to address allegations of procedural fairness: *Mohagheghzadeh v Canada (Citizenship and Immigration)*, 2013 FC 533 at para 6 [*Mohagheghzadeh*]; *Pinto v Canada (Citizenship and Immigration)*, 2013 FC 349 at para 8 [*Pinto*]. The Respondent asserts that there is nothing in the affidavit that bolsters the Minister's Delegate's reasons for issuing the exclusion order and it is therefore proper evidence: *Kalra v Canada (Citizenship and Immigration)*, 2003 FC 941 at para 15.

[27] The Respondent notes that not only do the Minister's Delegate's notes indicate that the Applicant did not express a fear of returning to St. Vincent, but so does a notation made on the previous day by the CBSA investigating officer. Therefore, the Applicant told two officials that she had no such fear. The evidence of the Minister's Delegate should be considered to be reliable, as it was corroborated by a second party with no interest in the outcome of the case. Furthermore, there is no obligation created by jurisprudence or guidance manuals on the Minister's Delegate to ask a person subject to a s 44(1) report whether they are at risk in their

home country before issuing a removal order. The Respondent says that procedural fairness requirements in the issuance of removal orders by the Minister's delegates are minimal, and do not include a right to counsel in the interview: *Canada (Citizenship and Immigration) v Cha*, 2006 FCA 126 at paras 52, 54-55.

(2) Minister's Delegate's Jurisdiction

[28] The Respondent argues that the Minister's Delegate made a valid decision to issue the exclusion order in accordance with his jurisdiction as established by law. According to the Court's jurisprudence, he had restricted discretion in deciding whether to make the exclusion order and was essentially limited to fact-finding: *Rosenberry v Canada (Citizenship and Immigration)*, 2010 FC 882 at paras 36-37 [*Rosenberry*]; *Eberhardt v Canada (Public Safety and Emergency Preparedness)*, 2013 FC 1077 at para 55 [*Eberhardt*]. The Applicant has made several submissions that rely on sections of the Operational Manual, but where these conflict with the jurisprudence, the jurisprudence must prevail.

[29] It cannot be said that the Applicant had a legitimate expectation that a removal order would not be issued in this case. Not only does the doctrine apply only to procedural rights, but the manual relied on by the Applicant does not give a "clear, unambiguous and unqualified" representation to individuals that they will not be issued removal orders.

(3) Costs

[30] The Respondent says there are no special reasons for the Applicant to be awarded costs with respect to the provisions of reasons, or the stay motion in this matter. While reasons for the Decision may not have been provided after the Federal Court Registry's request, they were immediately given after it became clear that the first request had been missed. There was no misconduct on the part of CBSA here.

[31] Furthermore, in seeking to enforce the provisions of the Act and scheduling the removal of the Applicant after she had remained in Canada without status for more than four years without making a refugee claim, CBSA was acting in an appropriate manner. There was no bad faith or improper conduct to justify an award of costs.

VIII. ANALYSIS

[32] The Minister's Delegate's affidavit is admissible in this case in so far as it speaks to the accusations of procedural unfairness raised by the Applicant. See *Mohagheghzadeh*, above, at para 6; *Pinto*, above, at para 8. The affidavit cannot, however, be used to bolster the Minister's Delegate's reasons which are found in the contemporaneous notes he made at the interview with the Applicant. I find the affidavit does not attempt to bolster the reasons for the Decision. It simply addresses the procedural unfairness allegations raised by the Applicant. It is therefore admissible.

[33] In her affidavit, the Applicant gives an account significantly at odds with the Minister's Delegate's affidavit and with the notes that make up the Minister's Delegate's Review form. In order to accept the Applicant's account, the Court would have to accept that the contemporaneous notes were deliberately concocted to mislead anyone who made reference to them.

[34] For example, on the central issue of whether the Applicant faces risk if she is retuned to St. Vincent, the Applicant opines that she was asked "if there is anything that was preventing me from going home" and that she "interpreted the question as asking me if there is anything in Canada which would prevent me from going back to St. Vincent." The Applicant is adamant that the Minister's Delegate "never asked me if I had any concerns in St. Vincent or whether I feared for my life or whether I wish to make a refugee claim."

[35] This is totally at odds with the Minister's Delegate's account of his usual and invariable practice that is supported by his contemporaneous notes which read as follows:

> Do you fear returning to St. Vincent for any reasons? (If subject identifies a fear, you must explore it and determine if subject intends to make a claim for refugee protected person status)

The Minister's Delegate has written next to this question:

> No fear of returning

Both the question and the answer could not have been clearer. Yet the Applicant says this is not how it was.

[36] As is usual in these cases, the Minister's Delegate's version is to be preferred, and for good reason. The Minister's Delegate had no reason to lie and his version is supported by contemporaneous notes and, in this case, is also corroborated by the CBSA investigating officer's notation that the Applicant told her "no fears – sending money home." See *Sribalaganeshamoorthy v Canada (Citizenship and Immigration)*, 2010 FC 11 at para 27; *Sehgal v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 212 at para 7.

[37] The Applicant's version, on the other hand, is found in her affidavit sworn for the purposes of this application some 5 months after the interview. The Court is being asked to assume that the Minister's Delegate is lying and that, at the time of the interview, he made inaccurate notes in order to make it look like he had addressed the fear in St. Vincent factor when, in fact, he had not.

[38] Much of the same can be said about the disagreement over whether the Applicant was asked whether she wanted legal counsel.

[39] The weight of evidence favours the Minister's Delegate's version of events and the Applicant has not convinced me that she was treated in any way that was procedurally unfair. Much the same goes for the other discrepancies between what the Applicant says transpired at the meeting and the way it was conducted, and what the Minister's Delegate says and his notes support. His version is also supported by the fact that the Applicant has lived in Canada for four years and has never sought refugee protection. In addition, she was offered a Pre-Removal Risk Assessment but she asked that it be deferred.

[40] The Minister's Delegate also made no reviewable error in making the exclusion order. As the Court made clear in *Rosenberry*, above:

> [36] The substance of the decision did not require the Minister's delegate to consider the H&C application or H&C factors at all. Under section 44 immigration officials are simply involved in fact-finding. They are under an obligation to act on facts indicating inadmissibility. It is not the function of such officers to consider H&C factors or risk factors that would be considered in a pre-removal risk assessment. This was recently confirmed in *Cha v. Canada (Minister of Citizenship and Immigration)*, 2006 FCA 126, [2007] 1 F.C.R. 409 at paragraphs 35 and 37.
>
> [37] Nor was it necessary in the context of the admissibility decision or the request for an adjournment to consider issues relating to the practicability of removal. At the time the request was made, it would have been reasonable for the Minister's delegate to consider that in the event that removal orders were made against the applicants, the applicants would still be entitled to make a request under section 48 of the Act to stay their removal, at which point a pending H&C application and other factors relating the practicability of removal are often considered.

[41] The same point was made in *Lasin v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1356 [*Lasin*]:

> [19] The immigration officer only had to conclude, based on the facts that the applicant did not have the proper status in order to remain in Canada. The standard of review for this type of administrative fact finding decision is that of patently unreasonable. I am convinced that the immigration officer followed the process set out in the Act and made a reasonable determination.

[42] Even more recently, in *Eberhardt*, above, at para 55 (citing *Lasin*, above) and para 59, the Court has made it clear that "[t]he only question before the immigration officer in determining whether to issue the order, was whether the information regarding the applicant's inadmissibility was accurate."

[43] Whatever may appear in the manual, the jurisprudence of the Court is clear that the Minister's Delegate only needed to consider the allegations of inadmissibility before a decision was made to remove the Applicant, and she could have no legitimate expectation of anything else.

[44] The Applicant also complains that the contemporaneous notes are not detailed enough and are not made in accordance with the applicable manual instructions. She points out that no answers are placed beside the questions "Do you wish to add any information or make any comments?" and "Do you have any questions?" But these questions do not go to the principal issues in dispute, i.e. that no legal counsel was requested and that the Applicant had no fear of returning to St. Vincent. The manual provides instructions, but a failure to follow it does not mean that the Applicant was not provided procedural fairness on the issues that she raises. The length of a decision is not what matters. Provided it deals with the relevant points in a fair and reasonable way then there is no reviewable error. The Applicant has not convinced me that she was not asked if she wanted legal counsel and was never asked about fears in St. Vincent. These are the central and deciding issues in this case.

[45] The Applicant has asked me to admit into evidence Citizenship and Immigration Canada's Exclusion Order Information Sheet and an example of detailed interview notes made by another Minister's delegate. I have admitted these documents as evidence. However, notes and records from another case do not establish a minimum standard of procedural fairness that must be followed in all cases. These comparator notes tell us nothing about how the matters in dispute in this application were handled at the interview. For that, we have to look at the two

affidavits and, in particular, the Minister's Delegate's contemporaneous notes and decide if procedural fairness was observed in this case.

[46] The Applicant has also asked that costs be awarded for the work done on a stay motion that did not proceed because the Respondent consented to the stay on the day before it was heard. She says it is clear on the face of the record that the Respondent behaved unreasonable by, first, issuing a notice of removal knowing that the Applicant had not had her risk assessed and, then, by refusing to defer the removal and putting the Applicant through the trouble of seeking a stay which was then consented to at the last minute.

[47] The Applicant was offered a risk assessment but asked that it be deferred. There is really nothing on the record before me to suggest that CBSA behaved improperly or is guilty of unfair, oppressive or bad faith conduct. The fact that consent came on the eve of the stay hearing is not, in itself, evidence of conduct that requires an award of costs. Stay motions often end this way.

[48] Consequently, I can find no special reason for an award of costs in this case.

[49] Counsel for the Applicant has suggested a question for certification along the following lines:

> In the event that the Court finds that the Applicant was not notified of her right to counsel – so that she could not have declined – do the instructions in the Manual (ENF 6 Review of reports under A44(1)) that officers must inform persons of the possibility of retaining counsel prior to commencing the interview, even though they don't have a right to counsel, give interviewees a participatory right to counsel in light of the decision in *Canada (Citizenship and Immigration) v Cha*, 2006 FCA 126 at para s 54 and 55?

[50] On the facts of this case, this question does not arise because my conclusion is that the Applicant was alerted to her right to counsel but declined.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. There is no question for certification.
3. No order is made as to costs.

"James Russell"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3026-15
STYLE OF CAUSE:	LLANA MAGNOLA POMPEY v MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JUNE 29, 2016
JUDGMENT AND REASONS:	RUSSELL J.
DATED:	JULY 22, 2016

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