

Federal Court



Cour fédérale

Date: 20191010

Docket: IMM-718-19

Citation: 2019 FC 1281

Toronto, Ontario, October 10, 2019

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

CHRISTINE TASHEKA ALLEN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Allen seeks an order setting aside a December 7, 2018 decision refusing her request to make an application for permanent residence from within Canada on humanitarian and compassionate grounds [the H&C Application].

[2] At the commencement of the hearing, counsel for Ms. Allen informed the Court that he had just discovered that supplementary and updated evidence filed by Ms. Allen was not

contained in the Certified Tribunal Record and no mention of it was made by the officer. Ms. Allen had filed this evidence with Immigration, Refugees and Citizenship Canada, which confirmed its receipt of the evidence in October 2018 – two months before the officer made his or her decision. This additional evidence should have been before the officer when he or she made the decision under review; it was not. That constitutes a breach of procedural fairness, and on this basis the decision must be set aside.

[3] Counsel for Ms. Allen asked that prior to another officer reconsidering the H&C Application, he be permitted to file additional information and submissions. Given the time that has passed and the fact that new counsel is involved, that is a reasonable request.

[4] No question for certification arises on these unique facts.

JUDGMENT in IMM-718-19

THIS COURT'S JUDGMENT is that this application is granted, the H&C Application is remitted to a different officer for consideration after the Applicant has had an opportunity to make further submissions and provide additional evidence in support of her application, and no question is certified.

“Russel W. Zinn”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-718-19

STYLE OF CAUSE: CHRISTINE TASHEKA ALLEN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 7, 2019

JUDGMENT AND REASONS: ZINN J.

DATED: OCTOBER 10, 2019

APPEARANCES:

Roger Rowe FOR THE APPLICANT

Judy Michaely FOR THE RESPONDENT

SOLICITORS OF RECORD:

The Law Offices of Roger Rowe FOR THE APPLICANT
Barrister & Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT