

Federal Court



Cour fédérale

Date: 20200106

Docket: IMM-5253-18

Citation: 2020 FC 13

Ottawa, Ontario, January 6, 2020

PRESENT: Mr. Justice James W. O'Reilly

BETWEEN:

MARY GRACE DE GUZMAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms Mary Grace De Guzman, originally from the Philippines, arrived in Canada in 2016 on a visitor's visa. She travelled with her employers, who had engaged her in Dubai as a domestic worker. The employers claimed that they were spending two months in Canada on vacation. Soon after their arrival, the employers revealed that they planned to stay in Canada permanently. Ms De Guzman did not have a work permit.

[2] In October 2017, Ms De Guzman left her job and went to live with an uncle in Vancouver. She moved from there into a residence for victims of human trafficking. She received therapy for symptoms of Post-Traumatic Stress Disorder (PTSD).

[3] Ms De Guzman filed a complaint against her employers with the BC Employment Standards Branch. She obtained a 180-day Temporary Resident Permit (TRP) as a Victim of Trafficking in Persons (VTIP) and a corresponding Open Work Permit (OWP). Her complaint was resolved on consent in 2018.

[4] Ms De Guzman then went to work at a restaurant and applied for an additional VTIP TRP and OWP, or, in the alternative, regular residency and work permits. An immigration officer refused her requests, finding that it was reasonably safe and possible for her to return to the Philippines where she had worked before and had family support. The officer noted that Ms De Guzman would be protected there against any reprisals by her former employers. In addition, she had received the support of Canadian organizations for several months, including counselling, and a \$16,500.00 settlement of her employment complaint.

[5] With respect to her request for a regular residence and work permit, the officer found that there was no basis for granting them. Ms De Guzman had resolved the complaint against her former employers and, while she was also dissatisfied with her treatment at the restaurant, she had not filed any complaint against it.

[6] Ms De Guzman submits that the officer's decision was unreasonable because it failed to take into account important evidence – her PTSD diagnosis and her allegations of mistreatment by her employers at the restaurant. She asks me to quash the officer's decision and order another officer to reconsider her application.

[7] I agree with Ms De Guzman that the officer overlooked important evidence in her favour, resulting in an unreasonable conclusion. I must, therefore, allow this application for judicial review.

II. Was the Officer's conclusion unreasonable?

[8] The Minister maintains that the officer's decision was reasonable because there was no justification for additional permits as a VTIP. In addition, the officer did not overlook evidence that Ms De Guzman displayed symptoms of PTSD, or that she may have been exploited by her employers at the restaurant. The officer found that Ms De Guzman had received psychological counselling and had not filed any complaint against the restaurant.

[9] I disagree with the Minister's submissions.

[10] The officer recognized that Ms De Guzman had received counselling over a period of several months, and that she requested time for additional counselling. However, the officer did not assess the merits of Ms De Guzman's request for time for further counselling, or consider the availability of suitable counselling in the Philippines.

[11] Further, in respect of the VTIP permits, the officer did not consider Ms De Guzman's allegations of abuse by the restaurant's employers or respond to her request for time to file a report against them.

[12] Accordingly, the officer's conclusion was unreasonable on the evidence.

III. Conclusion and Disposition

[13] The officer, having overlooked important evidence, rendered an unreasonable decision on Ms De Guzman's applications. I must, therefore, allow this application for judicial review.

Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-5253-18

THIS COURT'S JUDGMENT is that the application for judicial review is allowed,
and the matter is remitted to another officer for reconsideration.

"James W. O'Reilly"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-5253-18

STYLE OF CAUSE: MARY GRACE DE GUZMAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: JUNE 3, 2019

JUDGMENT AND REASONS: O'REILLY J.

DATED: JANUARY 6, 2020

APPEARANCES:

Natalie Drolet FOR THE APPLICANT

Kimberly Sutcliffe FOR THE RESPONDENT

SOLICITORS OF RECORD:

Migrant Workers Centre FOR THE APPLICANT
Barristers and Solicitors
Vancouver, British Columbia

Deputy Attorney General of FOR THE RESPONDENT
Canada
Vancouver, British Columbia