

Federal Court



Cour fédérale

**Date: 20220502**

**Docket: IMM-3006-20**

**Citation: 2022 FC 634**

**Ottawa, Ontario, May 2, 2022**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**MONIQUE MELEISHA ANDERSON**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a decision of a Visa Officer [the Officer], dated July 8, 2020 [the Decision], in which he refused the Applicant's application for permanent residence on humanitarian and compassionate [H&C] grounds.

[2] The Applicant was born on February 4, 1991, in Montego Bay, Jamaica. On June 12, 2017, she travelled to Ontario to visit her sister who lives in Leamington, Ontario. At that time,

she was three months pregnant. The Applicant gave birth to her daughter, Drayanna, prematurely on September 20, 2017. The baby stayed in the neonatal intensive care unit at the hospital for 65 days. She was on life support for some of that time, and there was concern about oxygen deprivation. On her discharge, she received ongoing follow-up care and monitoring by her pediatrician, Dr. Kassas.

I. The Decision

[3] When the Officer decided the H&C application, Drayanna was two years and eight months of age. She had been receiving monitoring and was doing very well. In a letter dated April 9, 2018, when she was nearly 7 months old, Dr. Kassas said that she was healthy and growing well. He added that he had no health concerns for her and that she was not on any medication. There was no further correspondence from Dr. Kassas before the Officer.

[4] In his letter, Dr. Kassas also indicated that Drayanna would require continued monitoring to assess her neurodevelopment until she was at least 5 years of age. This monitoring was required because she was said to be at high risk for global delay, cerebral palsy, learning disabilities, HDHD, and other conditions. However, none of these problems had arisen at the time of the Decision.

[5] Another document in the certified tribunal record titled Final Report of the Neonatal Follow-Up Clinic's Work Group dated May 21, 2015 [the Report] indicated that a monitoring visit should occur at 4 to 8 week post-discharge, and then at 4 months, 8 months, 12, 18, and 36

months post-discharge. The final visit would occur at 6 or 7 years of age. Since Drayanna was almost 3 at the time of the Decision, the Officer was for practical purposes considering her need for a monitoring visit perhaps at age 5 and again at age 6 or 7.

[6] The Officer clearly understood that he was being asked to take the requirement for monitoring into account. He said in his Decision, “the Applicant states that it is in the best interests of the child to remain in Canada, to allow her growth, development and health to be monitored”. The Officer noted that the monitoring at the neonatal clinic was undertaken to ensure that she was meeting more normal developmental milestones, and, as indicated above, her pediatrician had no concerns in this regard. The Applicant did not provide the Officer with an updated letter from Dr. Kassas. This suggests that at the time of the Decision, Drayanna was still in good health.

[7] A fair reading of the Decision suggests that the Officer used the word “treatment” to encompass the home-based speech exercises, dietary advice, and monitoring needed by Drayanna. The Officer was concerned that he received no information, which could have been assembled by Drayanna’s father, grandparents or other family members in Jamaica, about the availability or otherwise of follow-up monitoring for school-age children who had experienced pre-mature births. The Officer was only provided with generic information about underfunding and equipment shortages experienced by the Jamaican healthcare system. In these circumstances, the Officer concluded that he did not have sufficient evidence to find that a move to Jamaica would compromise Drayanna’s healthcare.

[8] Leaving health issues aside, the Officer considered Drayanna's best interests as they related to her living conditions. She was living with the Applicant in a shelter in Windsor for pregnant women and new mothers who had nowhere else to go. The Applicant had no active family ties, no personal friends, and minimal establishment. In contrast, Drayanna had a father in Jamaica who had expressed a wish to have a relationship with her. She also had other family members in that country.

## II. The Issues

[9] The Applicant said that the Officer failed to appreciate that Drayanna needed monitoring to detect the onset of any diseases or conditions caused by any brain damage she may have suffered as a result of her premature birth.

## III. Discussion

[10] In my view, the Officer understood that monitoring was required to detect possible problems and that the availability of such monitoring was an issue. This was made clear in Dr. Kassas's letter and in the Report referred to above. In my view, in the absence of any evidence that a monitoring visit for Drayanna at age 5 or 6 or 7 was not available in Jamaica, it was reasonable of the Officer to conclude that it was in her best interests to leave life in the shelter and go to Jamaica where she had a loving father and would benefit from the support of both parents.

IV. Certification

[11] No question was posed for certification for appeal.

V. Conclusion

[12] An order will be made dismissing the application.

**JUDGMENT IN IMM-3006-20**

**THIS COURT'S JUDGMENT is that** this application for judicial review is hereby dismissed.

"Sandra J. Simpson"

---

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3006-20

**STYLE OF CAUSE:** MONIQUE MELEISHA ANDERSON v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** BY TELECONFERENCE USING ZOOM

**DATE OF HEARING:** APRIL 6, 2022

**JUDGMENT AND REASONS:** SIMPSON J.

**DATED:** MAY 2, 2022

**APPEARANCES:**

Mary Jane Campigotto FOR THE APPLICANT

Asha Gafar FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Campigotto Law Firm FOR THE APPLICANT  
Windsor, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario