

Federal Court



Cour fédérale

**Date: 20221110**

**Docket: IMM-5867-21**

**Citation: 2022 FC 1537**

**Toronto, Ontario, November 10, 2022**

**PRESENT: Mr. Justice Diner**

**BETWEEN:**

**KELVIN IFEANYI OTITEH  
YVONNE OTITEH  
KYLE OCHILIGWE OTITEH  
NICOLE IJEOMA OTIEH**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicants seek judicial review, pursuant to s. 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act], of a decision by an immigration officer [Officer] dated

August 25, 2021, refusing their application for permanent residence. For the reasons that follow, I will dismiss this Application for judicial review.

[2] I provided my decision upholding the Officer's decision from the bench, and promised reasons to follow. These are my Reasons.

## II. Background

[3] The Applicants, a couple and their two minor children, are Nigerian citizens who arrived in Canada in 2018 and filed claims for refugee protection.

[4] While living in Canada, the Principal Applicant took courses in personal support work, hoping to work with his wife in the health care sector. His wife opened and currently manages a company that provides non-medical in-home services to seniors, people recovering from illnesses and injuries, and patients with dementia.

[5] In April 2021, the Applicants applied for permanent residence under the *Temporary public policy to facilitate the granting of permanent residence for certain refugee claimants working in the health care sector during the COVID-19 pandemic* [Policy]. Under the Policy, refugee claimants working in Canada's health care sector and providing direct care to patients during the COVID-19 pandemic may be granted permanent residence on the basis of sufficient public policy considerations, pursuant to s. 25.2 of the *Act*. The Policy outlines specific eligibility conditions (see Annex B). The Policy also excludes most inadmissible refugee claimants.

[6] At the time of the application for permanent residence, the Principal Applicant was inadmissible on grounds of criminality under s. 36(2) of the *Act*, having been convicted in September 2020 of one count of operation while impaired under s. 320.14(1) of the *Criminal Code*, RSC 1985, c C-46. As a result, the Principal Applicant applied for an exemption from inadmissibility, based on humanitarian and compassionate [H&C] considerations.

### III. Decision under Review

[7] The Officer refused the Applicants' permanent residence application on August 25, 2021 [Decision], finding that the Principal Applicant was inadmissible on grounds of criminality under s. 36(2) of the *Act*, and thus the Applicants were ineligible to receive permanent residence under the Policy.

[8] The Officer noted the Principal Applicant was ineligible to have his exemption request and application processed under H&C grounds as he had a pending refugee claim before the Immigration and Refugee Board [IRB].

### IV. Issues and Standard of Review

[9] The Applicants raise two issues before this Court: (i) the Officer failed to apply ss. 25(1) and s. 25.2 of the *Act* by finding that the Principal Applicant was ineligible to have his exemption request and application processed under H&C grounds; and (ii) the Officer's erred by finding the Applicants were ineligible for permanent residence under the Policy because of the Principal Applicant's inadmissibility under s. 36(2) of the *Act*.

[10] The Applicants submit that the applicable standard of review for both issues is correctness, because they are issues of law. I disagree. The issues raised in this Application engage the Officer's discretion under the statutory scheme set out in the H&C and the public policy considerations sections of the *Act*. Thus, these issues require this Court to apply the deferential standard of reasonableness review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 26 [*Vavilov*]).

[11] The first issue engages the Officer's discretion to grant an exemption and consider the permanent residence application under H&C grounds. This issue attracts a standard of reasonableness, as established by the Federal Court of Appeal [FCA] in *Tapambwa v Canada (Citizenship and Immigration)*, 2019 FCA 34 at para 31 [*Tapambwa*]. The second issue engages the Officer's discretion in assessing the Applicants' eligibility for permanent residence under the Policy.

[12] The Applicants have not identified any other basis to rebut the presumption of reasonableness review (*Vavilov*, at paras 16-17). A reasonable decision is one which is transparent, intelligible, and justified in relation to the relevant factual and legal constraints (*Vavilov* at para 99). The Court must be satisfied that any flaw or shortcoming in the decision is more than just superficial or peripheral to the merits of the decision, but that it is sufficiently central or significant to render the decision unreasonable (*Vavilov* at para 100).

V. Analysis

A. *The Officer's finding that the Principal Applicant was ineligible for an inadmissibility exemption under H&C grounds was reasonable.*

[13] The Applicants argue that the Officer determined that the Principal Applicant was ineligible pursuant to subsection 25(1.2)(b) of the *Act*, which the Applicants submit is not applicable in this case. They contend that the Officer should have considered the H&C considerations put forth in the exemption request pursuant to ss. 25(1) and 25.2 of the *Act* (ss. 25(1), 25(1.2) and 25.2 have been reproduced at Annex A to these Reasons).

[14] The Applicants propose that since in this case the Minister has enacted a public policy specifically for refugee claimants under s. 25.2, therefore s. 25(1.2)(b), which prevents the Minister from considering the H&C circumstances of refugee claimants, is not applicable. This, according to the Applicants, means that the Minister is no longer barred from considering the H&C circumstances of refugee claimants under s. 25(1.2)(b): he must consider the H&C circumstances of the Applicant pursuant to s. 25(1).

[15] I disagree with the Applicants' interpretation of the mechanics of ss. 25(1), 25(1.2)(b) and 25.2 of the *Act*, which would produce absurd consequences, contrary to the principle of legislative interpretation established by the Supreme Court of Canada in *Rizzo & Rizzo Shoes Ltd (Re)*, [1998] 1 SCR 27, 36 OR (3d) 418 at para 27.

[16] According to the Applicants' interpretation, s. 25.2 would allow the Minister to override the exceptions to s. 25(1) but not s. 25(1) itself. The Applicants submit no case law to support this proposition and I find that a plain reading of s. 25(1) does not impose such restrictions on the Minister's discretion with respect to public policy considerations. The analyses of the applicability of ss. 25(1) and 25.2 are discrete. To conjoin them in the way the Applicants propose, means to confound them. Rather, they are uniquely distinct provisions, as was illustrated in the following analysis of the FCA at para 103 of *Tapambwa*:

The former [s. 25(1)] contains mandatory language. The Minister "must" consider requests for humanitarian and compassionate relief. Section 25.2 in contrast, is discretionary. The Minister "may" consider granting relief. This is not a situation where the permissive or discretionary word, "may," can be read as mandatory.

[17] Here, the Officer reasonably carried out the analyses under ss. 25(1) and 25.2 to determine whether the Principal Applicant was eligible for an inadmissibility exemption for H&C grounds under either of these provisions of the *Act*. He found the Principle Applicant was ineligible for an inadmissibility exemption under both provisions.

[18] First, with respect to s. 25(1), the Officer reasonably declined to consider the H&C grounds put forth by the Principal Applicant, because of the exception under s. 25(1.2)(b), since the Principal Applicant had a pending refugee protection claim before the IRB at the time he submitted his permanent residency application under the s. 25.2-founded *Policy* .

[19] Second, with respect to s. 25.2, the Officer found no discretion to consider the H&C grounds put forth by the Principal Applicant, since s. 5 of the *Policy* states that the exemptions to

inadmissibility under the Policy do not include s. 36(2) (serious criminality). As he had been convicted of an offence rendering him inadmissible under s. 36(2), the Officer reasonably determined the Principal Applicant's was ineligible for an inadmissibility exemption under the Policy. This segues into the second issue raised, which for similar reasons, the Officer reasonably found that the Applicants were ineligible for permanent residence under the Policy.

B. *The Officer's finding that the Applicants were ineligible for permanent residence under the Policy is reasonable.*

[20] Section 5 of the Policy stipulates that the only kinds of inadmissibility that are permissible for foreign nationals applying for permanent residence under the Policy are (i) overstays, (ii) illegal work/study or (iii) entering the country illegally (see Conditions 5, 9 and the "Admissibility Requirements" of the Policy in Annex B to these Reasons). None of the three Policy carve-outs to the exclusion of other inadmissible persons, apply to the Principal Applicant, or anyone else who is inadmissible under s. 36(2). Under the legal maxim of *expressio unius est exclusio alterius* ("to express one thing is to exclude another"), if the Minister expressed only those three inadmissibilities as inclusions, he specifically intended the exclusion of others (see, for instance, *Canada v Loblaw Financial Holdings Inc*, 2021 SCC 51 at para 59).

[21] The Applicants submit that the legislative intent of the Policy is to recognize the significant contributions made by refugee claimants who put themselves at risk of contracting COVID-19, while working in designated occupations and providing direct care to vulnerable patients in need. Therefore, the Applicants argue that for equitable reasons, they should have

been eligible for permanent residence under the Policy, having met every other eligibility requirement under the Policy, except for the Principal Applicant's inadmissibility.

[22] This Court has determined that there is no objective content to public policy, it must be defined by the legislator who was elected to do so (*Tapambwa* at para 103, citing *De Araujo v Canada (Citizenship and Immigration)*, 2007 FC 393 at paras 19-23). Thus, neither the Officer, nor this Court in review, can define what is equitable and sufficient under public policy considerations to grant permanent residence. That task falls squarely to the Minister, who has done so in the comprehensive requirements set out in the Policy's eligibility criteria, as prescribed in its "conditions".

[23] Section 25.2 stipulates that the "Minister may ... grant that person permanent resident status or an exemption from any applicable criteria or obligations of this Act if the foreign national complies with any conditions imposed by the Minister" (emphasis added). The Minister clearly crafted the policy consistent with the language of the *Act*, stating in the "Admissibility Requirements" section, that "the foreign national (and their family members) must meet all admissibility requirements, other than those for which an exemption was granted to them under this public policy under condition 5 exempt the Principal Applicant from this requirement, on the basis of what he thinks is equitable."

[24] One cannot read in another exception to the criteria of the Policy as the Applicant wishes to do. The policy-making function as outlined in the Policy is the unique ken of the Minister, and the Officer's interpretation was entirely consistent with it.



VI. Conclusion

[25] The Officer's Decision to refuse the Applicants' permanent residence application was reasonable. I will dismiss this Application for judicial review. The parties propose no question of general importance for certification, and I agree that none arises.

**JUDGMENT in IMM-5867-21**

**THIS COURT'S JUDGMENT is that:**

1. The application is dismissed.
2. No questions for certification were argued and I agree none arise.
3. There is no award as to costs.

"Alan S. Diner"

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Judge

## Annex A

Relevant sections of ss. 25(1), 25(1.2) and 25.2 of the  
*Immigration and Refugee Protection Act*, SC 2001, c 2

### **Humanitarian and compassionate considerations — request of foreign national**

**25 (1)** Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

(1.2) The Minister may not examine the request if

(b) the foreign national has made a claim for refugee protection that is pending before the Refugee Protection Division or the Refugee Appeal Division;

### **Public policy considerations**

### **Séjour pour motif d'ordre humanitaire à la demande de l'étranger**

**25 (1)** Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

(1.2) Le ministre ne peut étudier la demande de l'étranger faite au titre du paragraphe (1) dans les cas suivants :

b) il a présenté une demande d'asile qui est pendante devant la Section de la protection des réfugiés ou de la Section d'appel des réfugiés;

### **Séjour dans l'intérêt public**

**25.2 (1)** The Minister may, in examining the circumstances concerning a foreign national who is inadmissible or who does not meet the requirements of this Act, grant that person permanent resident status or an exemption from any applicable criteria or obligations of this Act if the foreign national complies with any conditions imposed by the Minister and the Minister is of the opinion that it is justified by public policy considerations.

**25.2 (1)** Le ministre peut étudier le cas de l'étranger qui est interdit de territoire ou qui ne se conforme pas à la présente loi et lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, si l'étranger remplit toute condition fixée par le ministre et que celui-ci estime que l'intérêt public le justifie.

## **Annex B – The Policy**

### *Health Care Worker Policy Eligibility Requirements applicable to principal applicants*

The following is an extract reproduced from the Policy, which can be found in full at <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/permanent-residence-healthcare-pandemic-canada.html>:

#### **Conditions (eligibility requirements) applicable to the principal applicants**

Based on the public policy considerations, delegated officers may grant permanent residence to foreign nationals who meet the following conditions:

##### A) The foreign national:

1. Is a pending refugee claimant or a failed refugee claimant, who made a refugee claim in Canada prior to March 13, 2020 and continued to reside in Canada when their application for permanent residence was made;

2. Was authorized to work in Canada by virtue of a work permit or work permit exemption under section 186 of the *Immigration and Refugee Protection Regulations* (the *Regulations*), unless the individual lost their authorization to work as a result of a removal order against them becoming enforceable due to a final negative decision on their refugee claim, in which case work performed subsequent to

#### **Conditions (critères d'éligibilité) pour les demandeurs principaux**

Aux termes des considérations d'intérêt public susmentionnées, les agents délégués peuvent accorder la résidence permanente aux étrangers qui répondent aux conditions suivantes.

##### A) L'étranger :

1. Est un demandeur d'asile en attente d'une décision ou un demandeur d'asile débouté qui a demandé l'asile au Canada avant le 13 mars 2020 et qui a continué de résider au Canada quand la demande de résidence permanente a été faite;

2. Était autorisé à travailler au Canada en vertu d'un permis de travail ou d'une dispense de permis de travail sous l'article 186 du *Règlement sur l'immigration et la protection des réfugiés* (le *Règlement*), sauf si la personne a perdu son autorisation de travailler lorsqu'une mesure de renvoi à son égard est devenue exécutoire suite à une décision finale négative de sa demande d'asile, auquel cas le travail effectué suivant la perte de

the loss of that authorization need not be authorized;

cette autorisation n'a pas besoin d'être autorisé;

3. Intends to reside in a province or territory other than Quebec;

3. A l'intention de s'établir dans une province ou un territoire autre que le Québec;

4. Worked in Canada in one or more designated occupations (see Annex A) providing direct patient care in a hospital, public or private long-term care home or assisted living facility, or for an organization/agency providing home or residential health care services to seniors and persons with disabilities in private homes:

4. A travaillé au Canada dans une ou plusieurs professions désignées (voir l'annexe A) où l'étranger offrait des soins directs aux patients dans un hôpital, un établissement de soins de longue durée ou un foyer avec services public ou privé, ou encore pour un organisme où l'étranger offrait des services de soins de santé aux aînés à domicile ou en établissement ou aux personnes handicapées dans des résidences privées :

a. for a minimum of 120 hours (equivalent to 4 weeks full-time) between March 13, 2020 (the date when Canadian travel advisories were issued) and August 14, 2020 (the date the public policy was announced; and,

a. pendant au moins 120 heures (équivalent à 4 semaines à temps plein) entre le 13 mars 2020 (date de publication des conseils aux voyageurs canadiens) et le 14 août 2020 (date de l'annonce de la politique d'intérêt public);

b. for a minimum of 6 months full-time (30 hours per week) or 750 hours (if working part-time) total experience (obtained no later than August 31, 2021); and,

b. pendant au moins 6 mois à temps plein (30 heures par semaine) ou 750 heures (s'il s'agissait d'un emploi à temps partiel) d'expérience au total (acquise au plus tard le 31 août 2021);

c. for greater certainty, periods of work in a designated occupation must be paid unless the applicant was doing an internship that is considered an essential part of

c. pour plus de précision, les périodes de travail dans une profession désignée doivent être payées sauf si le demandeur effectuait un stage considéré comme une partie

a post secondary study program or vocational training program in one of the designated occupations, or an internship performed as part of a professional order requirement in one of the designated occupations.

5. Is not inadmissible other than for any of the following reasons: having failed to comply with conditions related to their temporary stay including having overstayed a visa, visitor record, work permit or student permit or having worked or studied without being authorized to do so under the Act (as long as it was solely as a result of losing their work authorization when a removal order against them became enforceable as specified under Condition A)2 described above); having entered Canada without the required visa or other document required under the *Regulations*; having entered Canada without a valid passport or travel document. However for the purpose of the granting of the permanent residence pursuant to this public policy, the foreign nationals and their family members are required by subparagraph 72(1)(e)(ii) of the *Regulations* to provide the Department of Immigration, Refugees and Citizenship Canada any of the documents enumerated under subsection 50(1) of the *Regulations*. If

essentielle d'un programme de niveau postsecondaire ou d'une formation professionnelle dans le cadre d'un emploi dans une des professions désignées ou si le demandeur a effectué un stage dans une des professions désignées requis par un ordre professionnel.

5. N'est pas interdit de territoire, sauf pour l'une des raisons suivantes : ne pas avoir respecté les conditions liées à son séjour temporaire, notamment avoir dépassé la durée de séjour autorisée par un visa, une fiche de visiteur, un permis de travail ou un permis d'études, ou avoir travaillé ou étudié sans y être autorisés aux termes de la Loi (pourvu que ce soit seulement en raison de la perte de leur autorisation à travailler due à une mesure de renvoi devenue exécutoire à leur égard tel que spécifié dans le cadre de la condition A)2 décrite ci-dessus); être entré au Canada sans le visa ou autre document requis par le *Règlement*; être entré au Canada sans passeport ou titre de voyage valide. Toutefois, en vue d'accorder la résidence permanente en vertu de cette politique d'intérêt public, l'étranger et les membres de sa famille doivent, selon le sous-alinéa 72(1)e(ii) du *Règlement*, fournir au ministère d'Immigration, Réfugiés et Citoyenneté Canada un des documents énumérés sous le paragraphe

the foreign national and their family members in Canada are unable to obtain any of the documents, enumerated under subsection 50(1) of the *Regulations* (e.g., valid passport or travel document), as required by subparagraph 72(1)(e)(ii) of the *Regulations*, an exemption from this requirement can be granted if these foreign nationals can provide any of the documents described in subsection 178(1) of the *Regulations* where such alternative document complies with the requirement of subsection 178(2) of the *Regulations* (specific wording of these provisions is provided in Annex B of this public policy).

6. Is a pending refugee claimant or claimant who has received a final negative decision from the Immigration and Refugee Board (IRB) and, if they have commenced an application for leave and judicial review of the negative IRB decision in Federal Court, or an appeal in relation to the underlying IRB decision at the Federal Court of Appeal, and who has complied with all other eligibility and admissibility conditions of this public policy, is required, in terms of the final condition of this public policy, to withdraw their refugee claim at the IRB or their appeal of the negative decision by the IRB at the Refugee Appeal Division

50(1) du *Règlement*. Si l'étranger et les membres de sa famille sont dans l'incapacité d'obtenir un des documents énumérés sous le paragraphe 50(1) du *Règlement* (par exemple un passeport ou un titre de voyage) tel qu'exigé selon le sous-alinéa 72(1)e(ii) du *Règlement*, une exemption de cette exigence peut être accordée si ces étrangers peuvent fournir un document décrit sous le paragraphe 178(1) du *Règlement* à la condition que le document de remplacement soit conforme aux exigences du paragraphe 178(2) du *Règlement* (le libellé spécifique de ces articles est fourni en Annexe A).

6. Est un demandeur d'asile en attente d'une décision ou un demandeur d'asile qui a reçu une décision défavorable finale de la Commission de l'immigration et du statut de réfugié du Canada (CISR) et qui, s'il a présenté une demande d'autorisation et de contrôle judiciaire concernant la décision négative de la CISR devant la Cour fédérale ou un appel en lien avec la décision sous-jacente de la CISR devant la Cour d'appel fédérale, et qu'il se conforme aux autres conditions d'éligibilité et d'admissibilité de cette politique d'intérêt public, est tenu, comme condition finale de cette politique d'intérêt public, de retirer sa demande d'asile de



(RAD), Federal Court application or appeal at the Federal Court of Appeal of the underlying decision of the IRB, in order to be granted permanent residence through the public policy. Should the individual decide not to withdraw their refugee claim at the IRB, their appeal at the RAD, their application at the Federal Court or their appeal at the Federal Court of Appeal, those processes will continue to proceed but their application for permanent residence under this public policy will be refused.

OR B) The foreign national:

7. Was the spouse or common-law partner of a foreign national who would have met conditions 1 and 2, worked in Canada in a designated occupation (see Annex A) providing direct patient care in a hospital, public or private long-term care home or assisted living facility, or for an organization/agency providing home or residential health care services to seniors and persons with disabilities in private homes, at any time between March 13, 2020 and August 14, 2020, and who contracted COVID-19 and passed away prior to applying

la CISR ou son appel d'une décision négative rendue par la CISR devant la Section d'appel des réfugiés (SAR), sa demande d'autorisation à la Cour fédérale ou son appel à la Cour fédérale d'appel en lien avec la décision sous-jacente de la CISR afin d'obtenir la résidence permanente au titre de cette même politique d'intérêt public. Si la personne décide de ne pas retirer sa demande d'asile devant la CISR, son appel devant la SAR, sa demande d'autorisation à la Cour fédérale ou son appel à la Cour fédérale d'appel, ces processus continueront mais sa demande de résidence permanente au titre de la présente politique d'intérêt public sera refusée.

OU B) L'étranger :

7. Était l'époux ou le conjoint de fait d'un étranger qui aurait rencontré les conditions 1 et 2, qui a travaillé au Canada dans une profession désignée (voir l'annexe A) où l'étranger offrait des soins directs aux patients dans un hôpital, un établissement de soins de longue durée ou un foyer avec services public ou privé, ou encore pour un organisme où l'étranger offrait des services de soins de santé aux aînés à domicile ou en établissement ou aux personnes handicapées dans des résidences privées, à tout moment entre le 13 mars et le 14 août 2020, et qui a contracté la COVID-19 et est

for permanent residence or after applying but before being granted permanent residence;

décédé avant de demander la résidence permanente ou après avoir présenté une telle demande, mais avant d'avoir obtenu la résidence permanente;

8. Resided in Canada prior to August 14, 2020 and intends to reside in a province or territory other than Quebec; and,

A résidé au Canada avant le 14 août 2020 et a l'intention de s'établir dans une province ou un territoire autre que le Québec; et

9. Meets condition 5 above and if the foreign national is a pending refugee claimant or claimant who has received a negative decision from the IRB, meets condition 6 above.

9. A résidé au Canada avant le 14 août 2020 et a l'intention de s'établir dans une province ou un territoire autre que le Québec; et

**Conditions (eligibility requirements) applicable to Family Members**

**Conditions (critères d'éligibilité) pour les membres de la famille**

Family members of the principal applicant eligible for immigration to Canada under this public policy will be granted permanent residence, if they are also residing in Canada, are persons who meet the definition of a "family member" in subsection 1(3) of the *Regulations* as assessed by a delegated officer, and are not inadmissible on other grounds than those from which they are exempted via this public policy under condition 5 and if they are pending refugee claimants or claimants who have received a negative decision from the IRB, they meet condition 6 above.

Les membres de la famille du demandeur principal éligibles à l'immigration au Canada dans le cadre de la présente politique d'intérêt public se verront accorder la résidence permanente s'ils résident également au Canada, s'ils répondent à la définition de « membre de la famille » énoncée au paragraphe 1(3) du *Règlement* selon l'évaluation effectuée par un agent délégué et s'ils ne sont pas interdits de territoire pour d'autres motifs que ceux pour lesquels ils sont dispensés dans le cadre de la condition 5 de la présente politique d'intérêt public et, s'ils sont des demandeurs d'asile en attente d'une décision ou des demandeurs d'asile qui ont

reçu une décision défavorable de la CISR, répondent à la condition 6 ci-dessus.

### **Admissibility Requirements**

The foreign national (and their family members) must meet all admissibility requirements, other than those for which an exemption was granted to them under this public policy under condition 5.

### **Critères d'admissibilité**

L'étranger (et les membres de sa famille) doit répondre à toutes les conditions d'admissibilité, autres que celles pour lesquelles une dispense lui a été accordée au titre de la présente politique d'intérêt public et spécifiquement dans le cadre de la condition 5.

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

**DOCKET:** IMM-5867-21

**STYLE OF CAUSE:** KELVIN IFEANYI OTITEH, YVONNE OTITEH,  
KYLE OCHILIGWE OTITEH, NICOLE IJEOMA  
OTIEH v THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** NOVEMBER 9, 2022

**JUDGMENT AND REASONS:** DINER J.

**DATED:** NOVEMBER 10, 2022

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