

Federal Court



Cour fédérale

Date: 20240613

Docket: IMM-13444-22

Citation: 2024 FC 903

Edmonton, Alberta, June 13, 2024

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**ABEBECH HORO SAO
BEKAN KASSA TASSISA
NAOL KASSA TASSISA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Abebech Horo Sao (the “Principal Applicant”), and her sons Mr. Bekan Kassa Tasissa and Mr. Naol Kassa Tasissa (collectively “the Applicants”) seek judicial review of the decision of an immigration officer (the “Officer”), refusing their application for permanent residence made within Canada, on Humanitarian and Compassionate (“H and C”) grounds,

pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicants are citizens of Ethiopia. They arrived in Canada in 2014 and sought Convention refugee status which was denied. H and C applications made in 2015 and 2016 were dismissed. A Pre-Removal Risk Assessment application was dismissed in 2019. A third H and C application was made in 2020. It too was refused in 2021 and the Applicants sought judicial review of the negative decision.

[3] With the consent of the Minister of Citizenship and Immigration (the “Respondent”), that decision was set aside and the Applicants were given the opportunity to submit more evidence and further submissions before a different officer.

[4] The Applicants argue that the Officer failed to meaningfully engage with the new evidence submitted about continuing risk to them in Ethiopia. They suggest that new evidence of risk, even if related to the risk that was assessed upon the hearing of their refugee claim, should be considered upon this H and C application, given the passage of time.

[5] Finally, the Applicants submit that the Officer apparently dismissed the documentary evidence from reliable third party sources which addressed the continuing risks in Ethiopia.

[6] The Applicants also challenge the manner in which the Officer treated their establishment in Canada since 2014.

[7] The Respondent argues that the decision is reasonable and judicial intervention is unwarranted.

[8] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the merits of the decision are reviewable on the standard of reasonableness.

[9] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov, supra*, at paragraph 99.

[10] Upon considering the contents of the Certified Tribunal Record and the written and oral submissions of the parties, I am satisfied that the Applicants have shown that the Officer’s decision fails to meet the standard of reasonableness.

[11] It is not apparent that the Officer appreciated the evidence about continuing risk in Ethiopia, as described in the third party reports from reliable sources, including the United Kingdom Home Office, as submitted by the Applicants.

[12] The Officer’s treatment of the Applicants’ establishment in Canada is cursory. The Officer’s conclusion, at page 4 of the decision, is cursory.

[13] In the result, the application for judicial review is allowed, the decision will be set aside, and the matter will be remitted to another officer for redetermination. There is no question for certification.

[14] I note that the Applicants incorrectly describe the Respondent as the “Minister of Citizenship and Immigration Canada”. The style of cause will be amended with immediate effect to describe the Respondent as the “Minister of Citizenship and Immigration”.

JUDGMENT IN IMM-13444-22

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter is remitted to a different officer for redetermination. There is no question for certification. The style of cause is amended to show the "Minister of Citizenship and Immigration" as the Respondent.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13444-22

STYLE OF CAUSE: ABEBECH HORO SAO ET AL. v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: JUNE 10, 2024

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 13, 2024

APPEARANCES:

Anna Kuranicheva FOR THE APPLICANTS

Meenu Ahluwalia FOR THE RESPONDENT

SOLICITORS OF RECORD:

Edmonton Community Legal Centre FOR THE APPLICANTS
Edmonton, Alberta

Attorney General of Canada FOR THE RESPONDENT
Calgary, Alberta