

Federal Court



Cour fédérale

Date: 20240628

Docket: IMM-9361-23

Citation: 2024 FC 1015

Toronto, Ontario, June 28, 2024

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

BERNADINE PHILLIP

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Bernadine Phillip (the “Applicant”) seeks judicial review of the decision of an officer (the “Officer”), refusing her application for permanent residence 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 Applicant is a citizen of Grenada. She is 61 years of age and has lived in Canada since 1990. She submitted her H and C application in 2021; it was refused.

[3] The Applicant sought leave and judicial review of the negative decision in IMM-8516-22. Following the grant of leave to commence an application for judicial review, the Minister of Citizenship and Immigration (the “Respondent”) consented to set aside the negative decision and remit the matter to another officer for reconsideration.

[4] The result of the reconsideration was another negative decision and the Applicant sought leave and judicial review.

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

[6] 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.

[7] I agree with the submissions of the Applicant that the Officer failed to address all the evidence and arguments submitted upon her H and C application, including the further submissions presented for the reconsideration.

[8] In *Vavilov, supra*, at paragraph 128 the Supreme Court instructed statutory decision makers to “meaningfully grapple with key issues or central arguments raised by the parties”. I am not satisfied that the Officer did so here.

[9] Neither am I satisfied that the Officer paid attention to the personal circumstances of the Applicant, including her health conditions.

[10] I agree with the Respondent that the Officer was mandated to weigh the evidence. I am not satisfied that the Officer considered all the evidence. “Weighing” and “considering” are different tasks.

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

JUDGMENT IN IMM-9361-23

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside and the matter is remitted to another officer for redetermination. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9361-23

STYLE OF CAUSE: BERNADINE PHILLIP v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 27, 2024

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 28, 2024

APPEARANCES:

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