

Federal Court



Cour fédérale

Date: 20140619

Docket: IMM-1936-13

Citation: 2014 FC 584

Toronto, Ontario, June 19, 2014

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

PEDLANGE JEAN BAPTISTE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

ORDER AND REASONS

(Reasons delivered orally in Toronto on June 18, 2014)

[1] Pursuant to subsection 7(2) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, the Applicant has applied for judicial review of a decision and reasons of a Senior Immigration Officer (the Officer), refusing her application for permanent residence. The decision was dated February 27, 2013.

I. Background

[2] The Applicant is a 28 year old citizen of Haiti. She left that country on July 15, 2005 and entered Canada on August 16, 2006. She claimed refugee protection at that time but, on March 5, 2009 her refugee claim was rejected.

[3] The Applicant has been steadily employed in Canada since May of 2007. She also volunteers as a French tutor, assists the homeless, assists charity fundraisers, and helps with community events. She is an active church member, and volunteers with its youth and in its French instruction program. She has taken courses in Canada to improve her fluency in English, as well as computer and chemistry courses.

[4] On January 16, 2010, five days after the devastating earthquake in Haiti, the Applicant applied for permanent residence on H&C grounds. On February 12, 2010, the Applicant wrote to CIC (the Letter) and said that she had learned that one of her sisters had fled to the Dominican Republic and that she was unable to locate her parents and her other sister. The Letter is in the Certified Tribunal Record.

II. The Decision

[5] Approximately three years after the Letter, the Decision included the following passage:

I am of the opinion that her strongest ties are in Haiti, where her parents and her sisters live and where she grew up and spent most of her life.

It is clear that the presence of family in Haiti was an important aspect of the Decision.

III. The Issues

[6] Although the Applicant has raised several issues, the Officer's apparent failure to consider the Letter is, in my view, determinative.

IV. Discussion and Conclusion

[7] The Officer's conclusion that the Applicant has parents and two sisters in Haiti shows that the Letter was not considered. This is clearly the case because the Letter made it clear that one sister had left Haiti. In my view, this makes the decision unreasonable.

V. Certification

[8] No question for posed for certification by either counsel.

ORDER

THIS COURT ORDERS that this application is allowed. The Humanitarian and Compassionate application is to be reconsidered and the Applicant may file further material on the reconsideration.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1936-13

STYLE OF CAUSE: PEDLANGE JEAN BAPTISTE V THE
MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 18, 2014

ORDER AND REASONS: SIMPSON J.

DATED: JUNE 19, 2014

APPEARANCES:

RAOUL BOULAKIA

FOR THE APPLICANT

SHARON STEWART GUTHRIE

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Raoul Boulakia
Barrister and Solicitor
Toronto, Ontario

FOR THE APPLICANT

William F. Pentney
Deputy Attorney General of
Canada

FOR THE RESPONDENT