

Federal Court



Cour fédérale

Date: 20150318

Docket: IMM-8106-13

Citation: 2015 FC 342

Toronto, Ontario, March 18, 2015

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

NIRMAL KUMAR GANAPATHY

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is a judicial review of a decision of Citizenship and Immigration Canada dated December 2, 2013 wherein the Applicant's application for an In-Canada Spousal Sponsorship for a Temporary Resident Permit was refused on the grounds of inadmissibility for criminality.

[2] The Applicant came to Canada from India in 2006 under a study permit. He made a refugee claim in 2010 which he withdrew in 2012.

[3] Early in 2009, the Applicant was charged with Driving Under the Influence (“DUI”). Later that year, the Applicant married a Canadian woman. In 2010, the Applicant was convicted of the DUI offence. He was fined \$1,000.00 and his driver’s license was suspended for a period of time. The charge, however, was one that has the possibility of a sentence such that it attracted the criminality provisions of the *Immigration and Refugee Protection Act* (“IRPA”), S.C. 2001, c. 27, s. 36(2)(a).

[4] The application under review is the third attempt by the Applicant for In-Canada Spousal Sponsorship. The first was rejected; the Applicant sought judicial review, the Minister’s lawyers agreed to send it back; the second was set aside by Citizenship and Immigration itself; the third is the subject of the current proceedings.

[5] Throughout, the Applicant has been faced with the difficulty presented by his previous conviction. In the present application, the Applicant provided evidence as to his efforts made to rehabilitate his drinking problem and evidence that his wife was pregnant.

[6] As is usual in cases of this kind, the reasons take the form of notes made by the Officer to the file, or FOSS notes. Those reasons indicate that the Officer was aware of the Applicant’s conviction, his marriage, his rehabilitation and his expectations of a child. They also indicate that the Officer was aware of the stress experienced by the Applicant and his wife.

[7] Applicant’s Counsel argues that the notes fail to provide a fulsome explanation as to the reasoning of the Officer in coming to the conclusion to reject the application. Despite this able

argument and the insistence of Counsel that this was not a situation such as that which the Supreme Court of Canada considered in *Newfoundland and Labrador Nurse's Union (Treasury Board)*, 2011 SCC 62, I find that it is precisely a situation contemplated by that case.

[8] That decision makes it clear that it is not required of a person such as the decision maker here to provide perfect reasons that would satisfy the most critical jurists. As the Court stated in *Newfoundland Nurses, supra*, adequacy of reasons is not a stand-alone basis for quashing a decision. It is sufficient if, in the context of the matter as a whole, that the reasons together with the outcome, show that the case falls within the range of possible reasonable outcomes. The Court must respect the decision-making process of administrative bodies both as to the facts and the law.

[9] I am satisfied that the notes demonstrate that the Officer did consider and gave ample regard to the relevant factors. The Applicant simply disagrees with the result. The result is, I find however, within the range of possible reasonable outcomes.

[10] The application will be dismissed. No party requested a certified question.

JUDGMENT

FOR THE REASONS PROVIDED:

THIS COURT THEREFORE ORDERS AND ADJUDICATES that:

1. The application is dismissed;
2. No question is certified;
3. No Order as to costs.

"Roger T. Hughes"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8106-13

STYLE OF CAUSE: NIRMAL KUMAR GANAPATHY v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 17, 2015

JUDGMENT AND REASONS: HUGHES J.

DATED: MARCH 18, 2015

APPEARANCES:

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