

Federal Court



Cour fédérale

Date: 20170118

**Dockets: IMM-2759-16
IMM-2760-16**

Citation: 2017 FC 61

Toronto, Ontario, January 18, 2017

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**ROGELIO LAMUG GUILLERMO
CHRISTINE NAIOME ALAPAY
GUILLERMO**

Applicants

and

**THE MINISTER OF IMMIGRATION,
REFUGEES AND CITIZENSHIP**

Respondent

JUDGMENT AND REASONS

[1] The Applicants, father and daughter, are citizens of the Philippines. They filed to visit their respective wife and mother of the Applicants, who is a live-in caregiver for an employer and his well-established family.

[2] As the Visa Officer, who assessed the Applicants' application, was not satisfied that the Applicants would want to return to the Philippines but rather would wish to remain in Canada with their wife and mother respectively; and, find opportunities herein, the Visa Officer denied the Applicants' request.

[3] The Applicants have submitted to the Court that the Visa Officer's decision was unreasonable due to the evidence presented to the officer; they, therefore, request that the Court set aside the officer's decision for this application to be considered anew by a different officer.

[4] Subsequent to a review of the file and its evidence, the Court considers that indeed the decision of the Visa Officer is unreasonable.

[5] It is noted by the Court as the evidence clearly demonstrates that the employer of the wife and mother in Canada wanted to surprise their employee for consistent loyal service to the family; and, therein stems the invitation for a family visit with financial support for the visit by the employer.

[6] In addition, the invitation was planned during the Christmas break from school of the daughter.

[7] It is duly noted by the Court that evidence presented to the Visa Officer included a demonstration of ties to the Philippines, property ownership and specific elements of attachment to their country of citizenship.

[8] Visits to close family members are understandable; and, are the very reason for the granting of such temporary visas (reference is made to *Khatoon v Canada (Citizenship and Immigration)*, 2008 FC 276 at paragraph 7).

[9] A visa for such purposes is not to be summarily dismissed. Although reasons for a decision may be most succinct, they must nevertheless be reasonable as per the Supreme Court's reasoning in respect of its standard of review reiterated in *Dunsmuir v New Brunswick*, [2008] 1 S C R 190 [*Dunsmuir*]. As stated by Justice Michael L. Phelan in *Nabin v Canada (Minister of Citizenship and Immigration)*, 2008 FC 200 at paragraph 7 and 8:

[7] The case law in this Court is consistent; the burden of establishing entitlement to a visa rests on an applicant. This burden includes the responsibility to produce all relevant information which may assist the application. There is no general requirement that visa officers engage in a form of dialogue as to the completeness or adequacy of materials filed.

[8] The exception to the absence of any obligation on a visa officer to give notice of concerns about filed materials is where there are concerns about the credibility, accuracy or genuineness of the information submitted or extrinsic evidence arises with respect to that information (see *Olorunshola v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 1056 (CanLII), paras. 30-37).

[10] Thus reasons, although brief, by an immigration officer, must nevertheless be transparent and intelligible, in respect of the facts and the law to be reasonable as handed down by the Supreme Court, both in *Dunsmuir* and *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paragraph 14.

[11] Therefore, due to all of the above, the decision is unreasonable; as a result, the judicial review is granted. The matter is to be returned to a different visa officer for consideration anew.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be granted; the matter is to be returned to a different visa officer for consideration anew. There is no serious question of general importance to be certified.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2759-16

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