Federal Court  Cour fédérale

Date: 20170724

Docket: IMM-4413-16

Citation: 2017 FC 703

Toronto, Ontario, July 24, 2017

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

RENOLD SYLVESTER DOUGLAS

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. INTRODUCTION

[1] This is an application under s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*] for judicial review of the decision of an immigration officer at the Case Processing Centre in Vegreville [Officer], dated October 3, 2016 [Decision], which denied the Applicant's application for permanent residence under the Spouse or Common-Law Partner in

Canada Class [Spousal Class] and request for humanitarian and compassionate [H&C] considerations.

II. BACKGROUND

[2] The Applicant is a 58-year-old citizen of Saint Vincent and the Grenadines who has resided in Canada since April 16, 2008. He married his wife and sponsor, Francine Margarite Frederick, on July 10, 2010.

[3] On February 12, 2013, the Applicant filed an application for permanent residence under the Spousal Class. He was scheduled to attend a landing interview on February 29, 2016, but the interview was cancelled after Ms. Frederick passed away on February 11, 2016.

[4] On May 16, 2016, the Applicant requested that his application be reviewed under H&C considerations.

III. DECISION UNDER REVIEW

[5] In a Decision sent to the Applicant dated October 3, 2016, the Officer refused the Applicant's application for permanent residence under the Spousal Class and request for an exemption under H&C considerations.

[6] In the letter, the Officer determined that the Applicant no longer met the eligibility requirements for sponsorship under s 124(c) of the *Immigration and Refugee Protection*

Regulations, SOR/2002-227 [*Regulations*] as he was no longer the spouse of a Canadian citizen after the death of his sponsor. With regards to the Applicant's request for H&C considerations, the Officer did not find that a waiver from the requirements of ss 124(a) and 124(c) of the *Regulations* was justified. The Officer then informed the Applicant that, as the subject of a removal order, the Applicant was required to leave Canada immediately.

[7] An entry dated October 1, 2016, in the Global Case Management System [GCMS] notes reveals how the Officer reviewed the request for H&C considerations.

[8] The Officer began with a review of the Applicant's immigration history. The Applicant had entered Canada on a six-month visitor visa on April 16, 2008, but did not leave or seek an extension of his stay. On January 24, 2013, he submitted an application for sponsorship under the Spousal Class, which was returned on the same day. The Canada Border Services Agency [CBSA] then became aware of his immigration status and an exclusion order was issued against the Applicant on March 9, 2013; however, the exclusion order was neither enforced nor stayed because the CBSA was aware of the intent of the Applicant's wife's to sponsor him. Upon review of the immigration history, the Officer determined that no weight should be given to the exclusion order because the Applicant had chosen to risk removal by not leaving Canada at the end of his authorized stay. Moreover, the Applicant did not comply with the exclusion order. The Officer acknowledged that the removal would cause hardship for both the Applicant and his son, Kemani Darien Waqar Gould, but determined it was not a sufficient reason to allow him to stay.

[9] With regards to country conditions, the Officer found that the Applicant had been employed in his home country prior to his arrival in Canada. Additionally, the Applicant had not demonstrated that either he or his children in his home country were unemployable.

[10] Next, the Officer considered the Applicant's immigration opportunities. The Officer accepted that the Applicant would not be eligible for the Federal Skilled Worker / Express Entry category and would likely not qualify under a provincial nominee program. However, the Officer was not satisfied that the Applicant's inability to meet the eligibility criteria in other classes was sufficient to exempt him from the eligibility criteria of the Spousal Class. Accordingly, the Officer assigned no weight to this factor.

[11] The Officer then reviewed the Applicant's previous spousal relationship. The Applicant and Ms. Frederick had been involved in a long-distance relationship prior to his arrival in Canada and their relationship was determined to be genuine by a different immigration officer. The Officer was satisfied that the relationship continued to the time of Ms. Frederick's death and that the Applicant grieved her loss; however, the Officer noted that grief varied between persons and it was unclear whether permanent residence in Canada would help him through the grief process. Consequently, the Officer assigned this factor some weight.

[12] As to the matter of *de facto* family membership, the Officer considered the Applicant's submissions describing his close, eight-year relationship with his step-daughter and her husband, the Ambrises. In particular, the Officer noted that Ms. Ambris described the Applicant as the father she wished she had had. Based on the descriptions given by Ms. Ambris and her husband,

the Officer was satisfied that the relationships were real and that all three individuals would feel the effects of a separation if the Applicant was required to leave Canada. While the Officer assigned some weight to this factor, it was also noted that the Applicant had a history of maintaining and developing relationships with people in Canada while outside of Canada and could continue to do so. The Officer also considered the Applicant's submission that his removal would have a psychological impact and effect on his remaining Canadian family, but the Officer was not satisfied that such an impact would be entirely negative or significant and, as a result, assigned this factor no weight. Moreover, the Officer found that the Applicant had not demonstrated the Ambrises relied on him for financial support or vice versa. Consequently, the Officer did not find there was interdependence sufficient to make the Applicant a *de facto* member of a nuclear family.

[13] Finally, the Officer assessed the Applicant's other ties to Canada. The Applicant had included his other children in the application, one of whom was in Canada and subject to a removal order. The Officer also considered the supporting letters from a cousin with permanent residence in Canada and a Canadian friend, who indicated the Applicant attended church.

[14] After a review of the application and submissions, the Officer found positive H&C factors but was not satisfied that they justified waiver of the eligibility criteria for the Spousal Class. The Officer refused the H&C request and overall application.

IV. ISSUES

[15] The Applicant submits that the following is at issue in this proceeding:

A. Did the Officer err unreasonably in the consideration and assessment of the Applicant's unique circumstances, given the sudden death of his wife and sponsor days before he was to be "landed"?

V. STANDARD OF REVIEW

[16] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of review applicable to a particular question before the court is settled in a satisfactory manner by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless, or where the relevant precedents appear to be inconsistent with new developments in the common law principles of judicial review, must the reviewing court undertake a consideration of the four factors comprising the standard of review analysis: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 48.

[17] An officer's decision rendered under s 25(1) of the *IRPA* is reviewable on a standard of reasonableness: *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanthasamy*] at para 44; *Madera v Canada (Citizenship and Immigration)*, 2017 FC 108 at para 6. Similarly, a decision regarding an application for permanent residence under the Spousal Class is also reviewed under reasonableness: *Gould v Canada (Citizenship and Immigration)*, 2017 FC 324 at para 12.

[18] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with "the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." See *Dunsmuir*, above, at paragraph 47, and *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, at paragraph 59. Put another way, the Court should intervene only if the Decision was unreasonable in the sense that it falls outside the "range of possible, acceptable outcomes which are defensible in respect of the facts and law".

VI. STATUTORY PROVISIONS

[19] The following provision of the *IRPA* is relevant in this proceeding:

Humanitarian and compassionate considerations – request of foreign national	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger**
25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible – other than under section 34, 35 or 37 – or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada – other than a foreign national who is inadmissible under section 34, 35 or 37 – who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent	**25 (1)** Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire – sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 –, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada – sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 – qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident

resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

[20] The following provisions of the *Regulations* are relevant in this proceeding:

Member	**Qualité**
124 A foreign national is a member of the spouse or common-law partner in Canada class if they	**124** Fait partie de la catégorie des époux ou conjoints de fait au Canada l'étranger qui remplit les conditions suivantes :
(a) are the spouse or common-law partner of a sponsor and cohabit with that sponsor in Canada;	**a)** il est l'époux ou le conjoint de fait d'un répondant et vit avec ce répondant au Canada;
(b) have temporary resident status in Canada; and	**b)** il détient le statut de résident temporaire au Canada;
(c) are the subject of a sponsorship application.	**c)** une demande de parrainage a été déposée à son égard.

VII. ARGUMENT

A. *Applicant*

[21] The Applicant submits that the Decision is unreasonable because it simply states that he was not entitled to a waiver from the requirements of s 124 of the *Regulations* because he was no longer a spouse or the subject of a sponsorship application. However, the Applicant had

specifically requested that his application be considered under H&C factors, including his remaining family in Canada. The Decision is unreasonable because the Officer paid scant attention to the H&C submissions, applied a test of hardship, and essentially found that the Applicant was not eligible due to the death of Ms. Frederick.

[22] The Applicant's request for H&C consideration referred to the decision in *Kanthasamy*, above, which found that, in the context of an H&C consideration: guidelines neither legally binding nor intended to be either exhaustive or restrictive; guidelines are not to be viewed as discrete and high thresholds; weight must be given to all relevant H&C factors; guidelines are instructive but not determinative and allow flexibility; whether relief is warranted varies on the facts of each case so an officer must consider and weigh all relevant factors; an H&C analysis should focus on the purpose of H&C relief; consideration must be given to an applicant's circumstances as a whole; and officers must approach submissions regarding discrimination flexibly.

[23] The Applicant argues that the H&C considerations of his particular case were significant and meritorious. His wife and sponsor had died unexpectedly after the approval of his application for permanent residence under the Spousal Class. The GCMS notes did not indicate there were other impediments to landing. Additionally, the Applicant had been in Canada for a decade and had great support from his friends, family, and community, which was important given that he was grieving the loss of his primary and immediate family member.

[24] In particular, the Applicant takes issue with the Officer's finding that it was "unclear whether permanent residence in Canada, apart from his late wife, would help him through [the grieving] process." The Applicant argues that this is unreasonable given that the crux of his H&C submissions spoke to his life, support, and establishment in Canada as well as the fact that the most important person in his life was Ms. Frederick.

[25] The Applicant also challenges the Officer's finding that if he is removed, there would be little to no psychological impact and effect on his remaining family members in Canada. This finding is harsh and not commensurate with the H&C considerations in the particular circumstances of this case.

[26] Moreover, the Applicant claims that the Officer applied the wrong legal test by finding that while there were positive H&C factors, including "some aspects of hardship," they did not justify approval of his H&C request. This approach is not consistent with *Kanthasamy*, above, which rejected the hardship test.

[27] Finally, the Applicant argues that the Officer disregarded the particular category and relevant section of the *IRPA* in the Decision in advising that the application was refused because he was no longer the subject of a sponsorship following the death of his sponsor.

B. *Respondent*

[28] The Respondent submits that the Decision is reasonable and is supported by cogent reasons.

[29] A decision made under H&C factors is an exceptional measure and discretionary; it is not an alternate means of applying for permanent residence status in Canada. Officers must assess the relevant factors and determine the weight to be given in each case. See *Canada (Minister of Citizenship and Immigration) v Legault*, 2002 FCA 125 at paras 11, 15; *Serda v Canada (Citizenship and Immigration)*, 2006 FC 356 at para 20; *Adams v Canada (Citizenship and Immigration)*, 2009 FC 1193 at para 31. In the present case, the Officer reviewed the submissions but was not satisfied that the H&C considerations justified an exemption from the eligibility criteria of the Spousal Class.

[30] The GCMS notes outline the Officer's consideration of all evidence submitted. There were positive factors, including aspects of hardship, but they did not justify a waiver. The Applicant's arguments amount to a disagreement with the weight given to the evidence, but this is not a ground for judicial intervention, nor is the Applicant's preference for a different outcome. The Officer did not misconstrue or fail to consider any evidence and the Decision is not unreasonable.

C. *Applicant's Further Argument*

[31] The Applicant continues to assert that the Officer did not adhere to the principles set forth in *Kanthasamy*, above. The reasons fail to demonstrate adequate consideration of the Applicant's unique, particular circumstances and only find that the Applicant was not entitled to a waiver by quoting the applicable regulation. The Applicant argues that this is not sufficient consideration or assessment of his H&C submissions because there was no meaningful analysis of the evidence adduced. Critical findings must be supported by a clear evidentiary basis.

[32] Additionally, the Applicant never argued that he was entitled to a particular outcome; the outcome was already decided in February 2016 when his application for permanent residence was approved. The Applicant argues that the decision of approval should not be reversed simply because his Canadian wife died weeks prior to his landing. This type of scenario fits neatly with the flexible criteria of an H&C assessment.

[33] Moreover, the Applicant's H&C submissions placed considerable focus on his relationship with Ms. Ambris, whom he has known for almost 36 years. Ms. Ambris considers the Applicant to be her father and he is her only surviving parent; such close family ties deserve meaningful consideration. However, the Officer unreasonably found that the removal of the Applicant would yield little to no psychological impact and effect on his remaining family members in Canada, including Ms. Ambris, a finding which is not consistent with the evidence before the Officer. The evidence, which was credible and reliable, warranted meaningful consideration and not merely a statement that the Applicant did not meet the requirements of s 124 of the *Regulations*. Although factually correct, the Applicant had requested H&C considerations, and the Officer unreasonably disregarded the H&C category in reaching a decision.

D. *Respondent's Further Argument*

[34] The Respondent submits that the Decision is reasonable and the Court should not reweigh the relevant H&C factors. The Applicant's arguments attempt to put greater weight on certain factors, such as the death of his wife and relationship to his step-daughter, in the assessment.

(1) Hardship

[35] The Respondent disagrees with the Applicant's view of *Kanthasamy*, above. First, hardship was not rejected as an element of H&C consideration; the SCC only cautioned against allowing use of undue, undeserved, and disproportionate hardship to fetter the assessment of the circumstances noted by applicants: *Kanthasamy*, above, at para 30; *Dhaliwal v Canada (Citizenship and Immigration)*, 2017 FC 191 at para 43; *VS v Canada (Citizenship and Immigration)*, 2017 FC 109 at paras 18-21. Second, the Applicant has not suggested how the brief reliance on hardship prevented consideration of the H&C factors submitted by the Applicant. A comparison of the submissions and GCMS notes does not demonstrate a fettering of discretion.

(2) Assessment of Circumstances

[36] While the Applicant has argued that the Officer failed to consider the unique circumstances of his case, he has not specified the particular circumstances that were not considered. The Respondent argues that the Applicant's submissions on this point are devoid of any elaboration and do not disclose any error.

[37] Moreover, the Officer's notes clearly demonstrate that the Applicant's submissions were considered. The evidence considered included the Applicant's: exclusion order; son; work experience; positive eligibility decision; relationship to Ms. Frederick; grieving process; relationship with his step-children; removal and resultant psychological effect on those in Canada; and financial interdependence. Contrary to the Applicant's argument that the Decision

lacks meaningful analysis, the Officer goes into considerable detail when parsing and reviewing the H&C submissions.

(3) Wife's Death

[38] The Respondent also disagrees with the Applicant's argument that Ms. Frederick's death shortly before the final interview fits neatly into a scenario that defines s 25 of the *IRPA*. There is no such thing as a scenario that would be determinative of when there are humanitarian and compassionate grounds that justify the exercise of discretion. As emphasized in *Kanthasamy*, above, at paras 30-32, nothing should be allowed to fetter or limit the equitable H&C discretion of an officer. Accordingly, the Respondent rejects the position that Ms. Frederick's death must, *ipso facto*, satisfy the H&C threshold. Notably, the Applicant's H&C submissions went beyond the death of his wife, which is contrary to his position on this point.

[39] The Applicant's arguments also do not disclose how the Officer was unreasonable in dealing with Ms. Frederick's death. The Officer made several cogent and sound statements regarding Ms. Frederick, including: the genuineness and length of the relationship; the grief experienced by the Applicant as a result of her loss; that grief varied between people and that there was insufficient evidence to establish the Applicant needed to be a permanent resident in Canada to handle that grief; and some weight had been given to her death in the overall consideration of the H&C assessment.

(4) Nature of Application

[40] The Respondent also disagrees that the transition of his application from being solely under Spousal Class to an H&C application led to an error. The Officer began the analysis with a characterization of the application as a spousal sponsorship to establish the statutory provisions from which the Applicant sought an exemption, which is a logical starting point.

(5) Family Members in Canada

[41] With regards to the submissions regarding Ms. Ambris, the Respondent stands by the Officer's assessment. The Officer considered whether the relationship was imbued by a sense of dependence such that the Applicant could be considered a *de facto* member of Ms. Ambris' family. The Officer also looked at the psychological impact and effect of his temporary removal on Ms. Ambris and her husband, but concluded that the inevitable negative impact would not be significant. There is nothing in the Applicant's arguments to suggest this finding was outside the range of acceptable choices open to the Officer on the facts of the case. Additionally, the Officer looked at the strength of the relationship between the Applicant and Ms. Ambris.

VIII. ANALYSIS

[42] The Applicant has made a concerted effort to convince the Court that the Officer committed a reviewable error in rendering a negative decision based upon H&C factors. Given the Applicant's long association with his wife before she died and his continuing relationships with members of her family, I can well understand the Applicant's disappointment. Had I been

making the decision myself, I might well have given more weight to these connections than the Officer did. However, the law is clear that I am not making this decision myself and the assignment of weight to any particular factor is a matter for the Officer's discretion, not mine. See *Canada (Citizenship and Immigration) v Ali*, 2016 FC 709 at para 48; *Dunsmuir*, above, at para 47.

[43] In the end, I just cannot say that this Decision lacks justification, transparency or intelligibility, or that it falls outside the range of possible, acceptable outcomes which are defensible in respect of the facts and the law. The irony is that a positive decision would also have been reasonable on the same facts and law but this, as we know, does not render this Decision unreasonable. See *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, at para 17.

[44] I cannot accept the Applicant's assertions that the Decision is unreasonable because the Officer paid scant attention to the H&C submissions, used a hardship lens, and essentially found that the Applicant was not eligible due to the death of his wife. A simple reading of the Decision reveals that there is no substance to any of these allegations. In the end, the Applicant simply disagrees with the Decision (which is entirely understandable) and believes that he was entitled to a positive decision. This is not, however, a basis for a finding of reviewable error.

[45] The Applicant cites and relies upon the decision of Justice Brown in *Marshall v Canada (Minister of Citizenship and Immigration)*, 2017 FC 72 [*Marshall*]. In that case, Justice Brown

agreed that the Officer had taken the wrong approach and had, indeed, filtered his assessment "through the lens of hardship":

> [29] In my respectful opinion, the Supreme Court of Canada in *Kanthasamy* changed the legal tests representatives of the Minister must use to assess H&C applications. Undoubtedly, prior to *Kanthasamy*, hardship was the general test although the courts had acknowledged that it was not the only test.
>
> [30] *Kanthasamy* reviewed the history of the Minister's humanitarian and compassionate discretionary power enacted set out in section 25 of IRPA. The Supreme Court of Canada re-established that *Chirwa v Canada (Minister of Citizenship and Immigration),* [1970] IABD No 1 [*Chirwa*] provided an important governing principles for H&C assessments, principles that are to be applied along with the older "hardship" analysis required by the Guidelines:
>
> > [13] The meaning of the phrase "humanitarian and compassionate considerations" was first discussed by the Immigration Appeal Board in the case of *Chirwa v. Canada (Minister of Citizenship and Immigration)* (1970), 4 I.A.C. 338. The first Chair of the Board, Janet Scott, held that humanitarian and compassionate considerations refer to "those facts, established by the evidence, which would excite in a reasonable man [*sic*] in a civilized community a desire to relieve the misfortunes of another - so long as these misfortunes 'warrant the granting of special relief' from the effect of the provisions of the Immigration Act": p. 350. This definition was inspired by the dictionary definition of the term "compassion", which covers "sorrow or pity excited by the distress or misfortunes of another, sympathy": *Chirwa*, at p. 350. The Board acknowledged that "this definition implies an element of subjectivity", but said there also had to be objective evidence upon which special relief ought to be granted: *Chirwa*, at p. 350.
>
> [31] The Supreme Court of Canada then stated as follows:
>
> > [21] But as the legislative history suggests, the successive series of broadly worded "humanitarian and compassionate" provisions in various immigration statutes had a common purpose,

> namely, to offer equitable relief in circumstances that "would excite in a reasonable [person] in a civilized community a desire to relieve the misfortunes of another": *Chirwa*, at p. 350.

[32] As to hardship the Supreme Court of Canada said that the hardship tests continue to apply, but added:

> [33] The words "unusual and undeserved or disproportionate hardship" should therefore be treated as descriptive, not as creating three new thresholds for relief separate and apart from the humanitarian purpose of s. 25(1). As a result, what officers should not do, is look at s. 25(1) through the lens of the three adjectives as discrete and high thresholds, and use the language of "unusual and undeserved or disproportionate hardship" in a way that limits their ability to consider and give weight to *all* relevant humanitarian and compassionate considerations in a particular case. The three adjectives should be seen as instructive but not determinative, allowing s. 25(1) to respond more flexibly to the equitable goals of the provision.
>
> [emphasis in original]

[33] In reviewing the reasons of the Officer, I am unable to detect any appreciation of the *Chirwa* approach. In my respectful opinion, H&C Officers should not only consider the traditional hardship factors, but in addition, they must consider the *Chirwa* approach. I do not say that they must recite *Chirwa* chapter and verse, nor that there are any magic formulae or special words these Officers must use. But the reviewing courts should have some reason to believe that the Officers have done their job, that is, that H&C Officers have considered not just hardship but humanitarian and compassionate factors in the broader sense.

[34] The Applicant submits that the Minister's representative assessed every factor through the lens of hardship, and hardship to the Applicant, and that in doing so the Officer applied the wrong legal test. I have reviewed the Officer's reasons and have come to the conclusion that the Applicant is correct.

[35] In my respectful view, the Officer's assessment of the Applicant's establishment was indeed filtered through the lens of hardship. The Officer gave significant weight to the support he received in respect of his years of community volunteer work,

> radio work and music - but immediately discounts it by referring to his ability to do volunteer work in the USA, i.e., he will not suffer much hardship. In my view, this focus on what he can do in the USA also runs afoul of what Justice Rennie, then of this Court, said in *Lauture v Minister of Citizenship and Immigration* 2015 FC 336 at 25: "… an analysis of the applicant's degree of establishment should not be based on whether or not they can carry on similar activities in Haiti. Under the analysis adopted, the more successful, enterprising and civic minded an applicant is while in Canada, the less likely it is that an application under section 25 will succeed."

[46] In my view, the Officer in the present case does not filter "establishment" through the lens of hardship. As the Officer makes clear in his summary, his approach is to say that "while there are positive H&C factors, including some as aspects of hardship, I am not satisfied that they justify waiver of the eligibility criteria for this class." Given the Applicant's H&C submissions, which place a strong emphasis on "hardship," the Officer was obviously obliged to deal with hardship in his analysis, but this does not mean he assessed the whole application through a hardship lens.

[47] In the important issue of whether the Applicant can be considered to be a *de facto* family member of his step-daughter and her husband, the Officer examines their interaction in Canada and acknowledged that the "nature of the relationships would change but they would continue" and that, as regards "financial interdependence there is no evidence of mutual reliance," and then reaches a conclusion that "this is a close relationship but I am not satisfied that it is a situation of dependence that makes a person a *de facto* member of a nuclear family." The Officer is obviously concerned here to assess the full nature of the relationship and, in particular, emotional closeness and financial dependence, not with a view to assessing hardship, but with a view to assessing the impact upon the relationship of the Applicant returning to St. Vincent.

[48] Likewise, with regards to country conditions in St. Vincent, the Officer says that:

> Country conditions: Mr. Douglas characterizes St. Vincent and the Grenadines as a country with no prospects. I accept that it is not a wealthy country, but note that Mr. Douglas was employed before he came to Canada. He does not show that he or any of his children who live in their home country are unemployable.

[49] With regards to the important issue of the "psychological impact and effect" of the Applicant's removal, the Officer says that:

> Mr. Douglas states that his removal will have a "psychological impact and effect" on his family members who do have a right to remain in Canada. The context of his statements is such that he believes the impact and effect will be negative. I give this no weight. I accept that it will have an effect, but I am not satisfied that he has shown that the impact will be entirely negative or significant.

[50] I see nothing here to suggest that the Officer is viewing "psychological impact" through the lens of hardship. The Officer is merely saying that the Applicant's entirely negative view cannot be accepted in full, but that there will be some psychological impact, and the Decision shows that this impact is taken into account.

[51] I do not think that this Decision is at all like the decision that Justice Brown had to deal with in *Marshall*, above, or that Justice Rennie dealt with in *Lauture v Minister of Citizenship and Immigration*, 2015 FC 336.

[52] Generally speaking, notwithstanding counsel's able arguments, I cannot accept that the Officer in this case viewed the whole H&C exercise through a hardship lens or that the Officer did not treat this as a pure H&C application. I can find no reviewable error with the Decision.

[53] Counsel concur there is no question for certification and the Court agrees.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application is dismissed;

2. There is no question for certification.

"James Russell"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4413-16
STYLE OF CAUSE:	RENOLD SYLVESTER DOUGLAS v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JUNE 14, 2017
JUDGMENT AND REASONS:	RUSSELL J.
DATED:	JULY 24, 2017

APPEARANCES:

Robert I. Blanshay	FOR THE APPLICANT
Stephen Jarvis	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Robert Israel Blanshay Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANT
Nathalie G. Drouin Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT