

Federal Court



Cour fédérale

Date: 20180514

Docket: IMM-4588-17

Citation: 2018 FC 506

[ENGLISH TRANSLATION]

Ottawa, Ontario, May 14, 2018

In the presence of Madam Justice Roussel

BETWEEN:

LÉONIE MOUSSOUNDA

Plaintiff

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Plaintiff is a citizen of the People's Republic of Congo. She arrived in Canada on April 3, 2016 and made a refugee claim a few weeks later. She alleges that she fears returning to her country of origin because of her sexual orientation and a special romantic relationship she had for several years.

[2] On July 11, 2016, the Refugee Protection Division (RPD) dismissed her application for lack of credibility. In particular, it found that the applicant's behaviour was not consistent with that of a person who truly fears for his or her life.

[3] On October 10, 2017, the Refugee Appeal Division (RAD) dismissed the applicant's appeal on the same grounds.

[4] The Plaintiff seeks judicial review of this decision. She alleges that the RAD erred in systematically rejecting all of her evidence without explanation and in making erroneous findings of fact regarding her credibility and subjective fear.

[5] The RAD's decision, including its findings as to credibility and its assessment of the evidence, is subject to review according to the standard for reasonableness (*Canada (Citizenship and Immigration) v. Huruglica*, 2016 FCA 93 at para. 35; *Chen v. Canada (Citizenship and Immigration)*, 2017 FC 539 at para. 19).

[6] Where the reasonableness standard applies, the Court's role is to determine whether the decision "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." As long as "the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility," it is not open to this Court "to substitute its own view of a preferable outcome" (*Dunsmuir v. New Brunswick*, 2008 SCC 9 at para. 47 [*Dunsmuir*]; *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12 at para. 59 [*Khosa*]).

[7] At the same time, it is important to recall the instructions of the Supreme Court of Canada that a judicial review must not be “a line-by-line treasure hunt for error”; on the contrary, the decision must be “approached as an organic whole.” (*Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, 2013 SCC 34 at para. 54; *Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65 at para. 3; *Newfoundland and Labrador Nurses’ Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para. 14).

[8] Despite the plaintiff’s arguments, the Court finds that the RAD’s decision is reasonable and sufficiently justified. The RAD applied the appropriate standard and conducted an independent assessment of the totality of the evidence on the record, referring several times to the recording of the hearing before the RPD and the evidence submitted by the plaintiff. Like the RPD, the RAD found the plaintiff’s testimony vague and confusing on material facts. The RAD also found that the plaintiff’s behaviour as a result of the alleged events and the manner in which she testified undermined her credibility. Although the RAD noted errors in some of the RPD’s findings, it found that the applicant had not credibly established the facts she alleged. The RAD also attached little evidentiary value to the documentary evidence adduced by the plaintiff, questioning the genuineness of the notice of meeting, and pointing out that the other documents were insufficient to establish the facts she alleged, or related to statements made by the plaintiff, whose credibility was at issue.

[9] The plaintiff failed to satisfy the Court that the RAD’s findings regarding her credibility and her subjective fear were unreasonable in light of the record. Although the plaintiff disagrees

with the findings of the RAD or the RPD, it is not for this Court to reassess and weigh the evidence to reach a conclusion that would be favourable to the applicant (*Khosa* at para. 59).

[10] In conclusion, the Court is of the view that the RAD's decision is reasonable because it falls within "a range of possible, acceptable outcomes that are defensible in respect of the facts and law." It is also justified in a manner that meets the criteria for transparency and intelligibility of the decision-making process (*Dunsmuir* at para. 47).

[11] No questions of general importance have been submitted for certification and the Court is of the view that this case does not raise any questions of general importance.

JUDGMENT in case IMM-4588-17

THE COURT ORDERS that:

1. The application for judicial review is dismissed;
2. No general questions are certified.

“Sylvie E. Roussel”

Judge

FEDERAL COURT
COUNSEL OF RECORD

DOCKET: IMM-4588-17

STYLE OF CAUSE: LÉONIE MOUSSOUNDA v. MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTREAL, QUEBEC

DATE OF HEARING: 09-05- 2018

JUDGMENT AND REASONS: JUSTICE ROUSSEL

DATE OF REASONS: 14-05-2018

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