

Federal Court



Cour fédérale

Date: 20191108

Docket: IMM-6606-18

Citation: 2019 FC 1399

Ottawa, Ontario, November 8, 2019

PRESENT: Madam Justice Simpson

BETWEEN:

AMAL ABDULRAHMAN AHMED BAFAGIH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered orally from the Bench in Toronto, Ontario on October 15, 2019)

I. Background

[1] This application is for judicial review of a decision dated October 31, 2018 wherein an Immigration Officer (the Officer) denied the Applicant's application for permanent residence as a dependent child of her mother/sponsor in Canada (the Application) and refused to grant Humanitarian and Compassionate (H&C) relief.

[2] It is clear from the record that the Application for permanent residence was without merit for two reasons:

- a) First, the Applicant is a 47 year old woman with a husband, 4 children and a career as a doctor and, as such, she was not eligible to apply as a dependent child; and
- b) Second, the Applicant's mother was not eligible to be a sponsor.

[3] At the time she filed the Application, the Applicant disclosed the fact that it was brought only for the purpose of seeking H&C relief.

[4] The Applicant and her husband live with their 4 daughters in the capital of Yemen. The two adult daughters are studying dentistry and medicine and the two minor daughters (the Children) are in school.

[5] In 2017, the Applicant and her family vacationed in Jordan for 5 months [the Vacation] but returned to Yemen notwithstanding the humanitarian crisis unfolding in that country.

[6] The significant issue is whether the Officer's assessment of the best interests of the Children is reasonable. The relevant facts found by the Officer are as follows:

- The Children's education is ongoing.
- The Children are healthy as are their parents and siblings.

- The Children have passports and can travel. They took the trip to Jordan described above.
- The Children's family is financially stable.
- The Children's parents are both employed.
- The Children have no ties to Canada.
- The Children would be safer in Canada than in Yemen.

[7] In my view, given that the Applicant and her family returned to Yemen from Jordan after the Vacation and given that as holders of Yemeni passports, they had the ability to find a safe home outside Canada, it was reasonable of the Officer to conclude that the best interests of the children did not justify a positive H&C decision.

[8] Finally, on other issues, I have concluded that, contrary to the Applicant's submissions, the Officer did not require the Applicant to be targeted for harm and did not fail to appreciate the country conditions in Yemen. Further, the Officer understood that the entire family would be coming to Canada in the event of a successful application.

[9] For all these reasons, the Application will be dismissed.

II. Certification

[10] No question was posed for certification for appeal.

JUDGMENT IN IMM-6606-18

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6606-18

STYLE OF CAUSE: AMAL ABDULRAHMAN AHMED BAFAGIH v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 15, 2019

JUDGMENT AND REASONS: SIMPSON J.

DATED: NOVEMBER 8, 2019

APPEARANCES:

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