

Federal Court



Cour fédérale

Date: 20200106

Docket: IMM-5580-18

Citation: 2020 FC 15

Ottawa, Ontario, January 6, 2020

PRESENT: Mr. Justice James W. O'Reilly

BETWEEN:

WENNIE ANONUEVO

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Wennie Anonuevo arrived in Canada on a work permit in 2006, leaving his spouse and six children in the Philippines. Over the ensuing years, Mr Anonuevo worked at a restaurant, even beyond the expiry of his permit. His requests for an extension were denied, and he was asked to leave Canada in 2014. He did not. Instead, he sought a spousal sponsorship based on a common-law relationship in Canada. Ultimately, Mr Anonuevo left Canada in 2015.

[2] Back in the Philippines, Mr Anonuevo applied for another work permit. An officer at the Canadian Embassy in the Philippines denied his application, being unpersuaded that Mr Anonuevo would leave Canada at the end of his term, considering the strength of his family ties in Canada and his previous overstaying of his visa.

[3] Mr Anonuevo asks me to quash the officer's decision because it was unreasonable, in particular, by discounting his ties to the Philippines and disregarding his explanation for overstaying his previous work visa. He also maintains that the officer should have advised him of concerns about his prior visa history and allowed him an opportunity to respond.

[4] I can find no basis for overturning the officer's decision. The officer's conclusion was based on the evidence about Mr Anonuevo's immigration history. In addition, the officer was not obliged to give Mr Anonuevo a chance to respond to the officer's concerns. The burden lay on Mr Anonuevo to persuade the officer that his application should be granted. The evidence was simply insufficient.

[5] There are two issues:

1. Was the officer's decision unreasonable?
2. Was the officer obliged to afford Mr Anonuevo a chance to respond to concerns about his application?

II. Issue One – Was the officer’s decision unreasonable?

[6] Mr Anonuevo argues that the officer’s decision was unreasonable because it did not take account of his strong family ties to the Philippines. Further, Mr Anonuevo submits that the officer failed to appreciate that he had worked legally in Canada from 2006 to 2014. He overstayed his visa, he says, because his employer assured him that an extension of his work permit was being considered.

[7] I disagree. The officer considered Mr Anonuevo’s ties both to Canada and to the Philippines. Mr Anonuevo had spent many years in Canada, away from his family in the Philippines, and had acquired a new family here. The officer reasonably considered the evidence of Mr Anonuevo’s ties to both countries.

[8] Further, the officer considered the circumstances surrounding Mr Anonuevo’s past work visa and found that he had not explained his failure to leave Canada once his visa had expired. Mr Anonuevo suggested that his employer had failed to file the necessary documents in time, but the officer found that to be an insufficient explanation. I see nothing unreasonable about the officer’s decision on that issue.

III. Issue Two – Was the officer obliged to afford Mr Anonuevo a chance to respond to concerns about his application?

[9] Mr Anonuevo argues that the officer had an obligation to inform him of any concerns about his application, especially in light of his good immigration record in Canada.

[10] I disagree. The officer considered Mr Anonuevo's explanation and found it to be inadequate. In addition, any refusal of a work permit for Mr Anonuevo would not prevent him from re-applying. In the circumstances, the officer was not obliged to give Mr Anonuevo an opportunity to respond to his concerns.

IV. Conclusion and Disposition

[11] The officer's decision was not unreasonable. Nor did the officer treat Mr Anonuevo unfairly by not affording him an opportunity to respond to concerns arising from his application. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-5580-18

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed,
and no question is certified.

"James W. O'Reilly"

Judge

**FEDERAL COURT
SOLICITORS OF RECORD**

DOCKET: IMM-5580-18

STYLE OF CAUSE: WENNIE ANONUEVO v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: JUNE 6, 2019

JUDGMENT AND REASONS: O'REILLY J.

DATED: JANUARY 6, 2020

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