

Federal Court



Cour fédérale

Date: 20211124

Docket: IMM-1140-20

Citation: 2021 FC 1295

Ottawa, Ontario, November 24, 2021

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

LUAN LEONA LAIDLOW

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

**(Delivered orally from the Bench by videoconference
at Ottawa, Ontario on October 14, 2021)**

[1] This application is for judicial review of a decision made by an Immigration Officer [the Officer] refusing the Applicant's application for permanent residence on humanitarian and compassionate [H&C] grounds under s. 25(1) of the *Immigration Refugee Protection Act*, S.C. 2001, c.27 [IRPA]. The decision is dated May 5, 2020.

[2] The Applicant is a 54-year-old citizen of St. Vincent and the Grenadines [St. Vincent]. She arrived in Canada on July 22, 2012, and has remained here since then. She has been undocumented since the expiry of her temporary resident status on June 30, 2013. The Applicant has four adult children who live in St. Vincent.

[3] The Applicant's spouse was abusive towards her. She made reports to the police but no action was taken. The Applicant endured her husband's abuse until her children became adults and she then left for Anguilla, where she remained for four years. During her time in Anguilla, her children notified her that her husband knew of her whereabouts. She therefore came to Canada and was approved for a visitor's visa.

[4] The Applicant was divorced in 2012 and there was no evidence that her former husband was ever a threat after she left the marriage. The Applicant did not make a claim for asylum in Canada.

I. THE ISSUES

1. Did the Officer fail to properly assess the Applicant's evidence of establishment?
2. Did the Officer err in applying too high a threshold when assessing the hardship the Applicant would face on her return to St. Vincent?

II. DISCUSSION

ISSUE 1

[5] The Applicant provided evidence of the following circumstances:

1. that she had been educated as a personal support worker and had taken a computer course as well as a baking course;
2. that she had significant volunteer involvement in her church, including being elected as Deaconess;
3. that she had significant community support. She had 30 letters of support and 200 names on a petition in favour of granting her H&C Application;
4. that she had been financially responsible; and
5. that she had been employed. Although the evidence was somewhat lacking, her employment history was nevertheless accepted.

[6] The Officer considered these circumstances, and while she accepted them, and in some cases complimented the Applicant, she ultimately gave establishment little weight because she found that the Applicant's accomplishments were to be expected of someone in her circumstances. She found that they were balanced by the fact that none of her friendships involved deeper commitments, and the fact that she never tried to correct her legal status. This meant that, for many years, she had worked and studied without authorization.

[7] The Applicant says that according her establishment little weight was unreasonable. However, I cannot agree.

[8] The difficulty is that the Applicant did not present any special circumstances. Although some of the circumstances she presented were usually well supported, there were no unusual circumstances which would meet the test in *Kanthasamy v Canada (MCI)*, 2015 SCC 61. There, at paragraph 21, the Supreme Court of Canada said:

... 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"¹.

ISSUE 2

[9] The Officer considered both domestic violence against women and poverty and found that they were prevalent in St. Vincent. However, the Officer also considered the Applicant's personal circumstances. She has a supportive family, a good education and a good employment record. Further, there was no evidence that her former husband was a threat.

[10] In my view, it was not unreasonable of the Officer to conclude that given her personal circumstances the Applicant did not face hardship in St. Vincent.

¹ *Kanthasamy v Canada (Citizenship and Immigration)*, [2015] 3 SCR 909, 2015 SCC 61, [2015] 3 RCS 909, [2015] SCJ No 61, [2015] ACS no 61 at para 21.

III. CONCLUSION

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

IV. CERITIFICATION

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

JUDGMENT IN IMM-1140-20

THIS COURT'S JUDGMENT is that the Application is hereby dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1140-20

STYLE OF CAUSE: LUAN LEONA LAIDLAW v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE USING ZOOM

DATE OF HEARING: OCTOBER 14, 2021

JUDGMENT AND REASONS: SIMPSON J.

DATED: NOVEMBER 24, 2021

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