Federal Court  Cour fédérale

Date: 20211231

Docket: IMM-3219-20

Citation: 2021 FC 1484

Ottawa, Ontario, December 31, 2021

PRESENT: Mr. Justice Gascon

BETWEEN:

ANTOINE NYABUZANA
CAPITOLINE NZEYIMANA

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicants, Mr. Antoine Nyabuzana and Ms. Capitoline Nzeyimana, are citizens of Burundi. In March 2019, they applied for permanent resident status pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. This provision gives the Minister of Citizenship and Immigration [Minister] discretion to exempt foreign nationals from

the ordinary requirements of the IRPA if the Minister is of the opinion that such relief is justified by humanitarian and compassionate [H&C] considerations, including the best interests of any child directly affected. In July 2020, a senior immigration officer [Officer] of the Refugee Protection Division of the Immigration and Refugee Board of Canada denied the applicants' request, finding that they had failed to demonstrate that their personal circumstances justified granting a discretionary exemption based on H&C grounds [Decision].

[2] Mr. Nyabuzana and Ms. Nzeyimana now seek judicial review of the Officer's Decision. They claim that the Decision is unreasonable. In support of their application, Mr. Nyabuzana and Ms. Nzeyimana submit that the Officer misconstrued the submissions and evidence they had provided, erred in his assessment of the evidence regarding the hardships they would face upon their return to Burundi, and failed to properly consider the impact of a removal on Mr. Nyabuzana's mental health. They ask that their case be sent back for redetermination by a different decision maker.

[3] The only issue to be dealt with is whether the Officer's Decision denying Mr. Nyabuzana and Ms. Nzeyimana permanent residence on H&C grounds is reasonable.

[4] For the following reasons, I will dismiss Mr. Nyabuzana and Ms. Nzeyimana's application for judicial review. In light of the Officer's findings, the evidence presented to him and the applicable law, I see no reason to set aside the Decision, either as regards to the assessment of the evidence or the conclusions drawn by the Officer in the context of his assessment of the H&C factors at stake. The Officer's reasons have the qualities that make the

Decision's reasoning logical and consistent, having regard to the relevant legal and factual constraints. There are no grounds for intervention by the Court.

II. Background

A. *The factual context*

[5] Mr. Nyabuzana and Ms. Nzeyimana are both of Burundian nationality and of Tutsi ethnicity. They have been married since 1977 and have four adult children. Before fleeing Burundi, Mr. Nyabuzana was a dairy farmer for several decades, while Ms. Nzeyimana worked for a para-state energy power company.

[6] In 2001, Mr. Nyabuzana joined an opposition political party named the "Union pour la paix et le développement" [UPD]. He claims to have been an active member of the organization and to have been in charge of recruiting and mobilizing supporters in his residential area.

[7] In 2015, a period of significant political instability began in Burundi when the ruling president, Pierre Nkurunziza, of the "Conseil National pour la Défense de la Démocratie – Forces pour la Défense de la Démocratie" decided to pursue a third mandate, in contravention of the country's constitution. Opponents of the regime have since been the subject of persecution.

[8] Starting in August 2016, Mr. Nyabuzana claims to have received threats from the police, the security forces, and the youth league of the ruling party (known as the "Imbonerakure"). These threats sought to make him join and contribute financially to the ruling party. Fearing

arrest and believing that his life was in danger, Mr. Nyabuzana left the family home and went into hiding.

[9] In January 2017, Mr. Nyabuzana and Ms. Nzeyimana fled Burundi for the United States [US]. In February 2017, allegedly fearful of the rising anti-immigrant sentiment in the US, Mr. Nyabuzana and Ms. Nzeyimana attempted to enter Canada to make a refugee claim. The Canada Border Services Agency officer refused them entry on the ground that he did not believe that Mr. Nyabuzana had a half-brother in Canada, which would have made the couple qualified for a Safe-Third-Country exemption. The couple was therefore sent back to the US.

[10] In August 2017, Mr. Nyabuzana and Ms. Nzeyimana crossed the Canadian border on foot at the Lacolle port of entry. The couple was not eligible to make a refugee claim, and opted to make a permanent residency application via an H&C exemption under subsection 25(1) of the IRPA. They raised the following elements to support their request: (i) the situation of insecurity and violence in Burundi; (ii) their perceived political opinion; (iii) their Tutsi ethnicity; (iv) their economic insecurity; and (v) the impact of removal on Mr. Nyabuzana's mental health.

B. ***The Decision***

[11] The Officer dismissed Mr. Nyabuzana and Ms. Nzeyimana's request for an H&C exemption, and relied on two key elements to justify this conclusion.

[12] First, the Officer determined that, due to the applicants' prior unsuccessful attempt to obtain refugee protection in Canada, granting an H&C exemption would amount to

circumventing the spirit of the IRPA. Under section 11 of the IRPA, foreign nationals must make their application for permanent residency from outside Canada. In other words, the Officer believed that the couple was relying on a claim of permanent residency status as a substitute for a claim of refugee protection.

[13] Second, the Officer determined that Mr. Nyabuzana and Ms. Nzeyimana had failed to demonstrate that the current political turmoil in Burundi was of particular consequence to them personally. While the Officer did not question the veracity of the couple's depiction of the general situation in Burundi, he found that Mr. Nyabuzana and Ms. Nzeyimana had nonetheless failed to establish that they would face personal hardship if removed to Burundi, be it due to their political affiliation or to their ethnicity.

[14] In reaching this conclusion, the Officer relied on the lack of personal evidence submitted by Mr. Nyabuzana and Ms. Nzeyimana, and on the little weight to give to such evidence. For instance, the Officer noted the weakness of the evidence submitted by Mr. Nyabuzana and Ms. Nzeyimana regarding the deterioration of their living conditions prior to departing their country. The Officer further observed that Mr. Nyabuzana did not seem particularly affected by having abandoned his farm and the animals he had taken care of for the past 35 years. Additionally, the couple had not specified if Mr. Nyabuzana had followed the psychological treatments recommended by his psychologist following his Post-Traumatic Stress Disorder [PTSD] diagnosis. They simply mentioned that Mr. Nyabuzana's mental health had deteriorated, without providing further evidence on that score.

[15] Further in his analysis, the Officer recognized that Mr. Nyabuzana and Ms. Nzeyimana had begun to show some degree of establishment in Canada over the three years since their arrival. Both work part-time and have been involved as volunteers in their community. Additionally, they have some personal ties to this country: they have reconnected with six Burundian friends now in Canada, one of their daughters lives in Alberta, and their granddaughter lives in Montréal as an asylum claimant. The Officer nonetheless concluded that the evidence submitted by Mr. Nyabuzana and Ms. Nzeyimana was not sufficiently strong to conclude to a substantial degree of establishment and of personal ties to Canada.

[16] In the end, the Officer concluded that these considerations were not sufficient to warrant the granting of an H&C exemption.

C. *The standard of review*

[17] The framework for judicial review of an administrative decision was reviewed by the Supreme Court of Canada [SCC] in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. This analytical framework is now based on the presumption that the standard of reasonableness applies in all cases. This presumption can be rebutted in only two types of situations. The first is where the legislature has statutorily prescribed a standard of review or where it has provided for an appeal from the administrative decision to a court; the second is where the question on review falls into one of the categories of questions that the rule of law requires to be reviewed on a standard of correctness (*Vavilov* at paras 10, 17; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post*] at para 27).

[18] None of the situations that warrant departing from the presumption of reasonableness review apply here. The Officer's decision is therefore reviewable on a standard of reasonableness, and the parties do not challenge this. Indeed, the case law has already established that the standard of review applicable on a judicial review of a discretionary decision respecting an application made under subsection 25(1) of the IRPA is reasonableness (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanthasamy*] at paras 44-45; *Bhatia v Canada (Citizenship and Immigration)*, 2017 FC 1000 at para 21; *Kaur v Canada (Citizenship and Immigration)*, 2017 FC 757 at paras 24-25).

[19] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85; *Canada Post* at paras 2, 31). The reviewing court must consider "the outcome of the administrative decision in light of its underlying rationale, to ensure that the decision as a whole is transparent, intelligible and justified" (*Vavilov* at para 15). The reviewing court must therefore ask itself "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility—and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov* at para 99, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] at paras 47, 74 and *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2 at para 13).

[20] It is not enough for the outcome of a decision to be *justifiable*. Where reasons for a decision are required, the decision "must also be *justified*, by way of those reasons, by the

decision maker to those to whom the decision applies" [emphasis in original] (*Vavilov* at para 86). Thus, review on the reasonableness standard is concerned with both the outcome of the decision and the reasoning process followed (*Vavilov* at para 87). I note that this view is consistent with the direction in *Dunsmuir* that judicial review involves both the outcome and the process (*Dunsmuir* at paras 27, 47-49).

[21] Reasonableness review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must examine the reasons provided with "respectful attention" and seek to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene only "where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13). It is important to remember that reasonableness review finds its starting point in the principle of judicial restraint and must still show respect for the distinct role conferred on administrative decision makers (*Vavilov* at paras 13, 75). The presumption of reasonableness review is based on "respect for the legislature's institutional design choice, according to which the authority to make a decision is vested in an administrative decision maker rather than in a court" (*Vavilov* at para 46). In other words, according to the majority of the SCC, *Vavilov* is not a eulogy for deference to administrative decision makers.

III. Analysis

[22] Mr. Nyabuzana and Ms. Nzeyimana raise three main grounds to challenge the Officer's Decision.

A. *The submissions and evidence in support of Mr. Nyabuzana and Ms. Nzeyimana's H&C application*

[23] Mr. Nyabuzana and Ms. Nzeyimana first submit that the Decision is unreasonable because the Officer misconstrued their submissions and evidence, and did not provide adequate justification for the outcome reached.

[24] Regarding the assessment of the hardship that the couple would face in Burundi, Mr. Nyabuzana and Ms. Nzeyimana submit that it was unreasonable for the Officer to focus solely on the perceived political opinion risk, while the evidence submitted mentioned other types of risk such as: (i) the current situation of violence and insecurity in the country; (ii) their Tutsi ethnicity; (iii) their economic insecurity; and (iv) the impact of a removal on Mr. Nyabuzana's mental health. Mr. Nyabuzana and Ms. Nzeyimana also submit that it was unreasonable for the Officer to conclude that their evidence was light and unclear, where a large amount of documentary evidence of reputable sources was provided. The couple further argues that it was unreasonable for the Officer to conclude that granting an H&C exemption would amount to circumventing the spirit of the IRPA.

[25] Mr. Nyabuzana and Ms. Nzeyimana further contend that they only had to demonstrate a likely hardship in Burundi, given that the conditions in the country are such that they support a reasoned inference as to the challenges they would face (*Kanthasamy* at para 56). In their view, the large documentary evidence detailing the current situation in Burundi explained not only why the Canadian government had imposed an administrative deferral of removals [ADR] for Burundi, but also the hardship they were likely to face if removed to their country of residence.

[26] I am not persuaded by Mr. Nyabuzana and Ms. Nzeyimana's arguments and do not find that the Officer misconstrued their submissions and evidence, or unreasonably assessed them by ignoring evidence and focusing on irrelevant considerations.

[27] The arguments raised by Mr. Nyabuzana and Ms. Nzeyimana are peripheral to the core problem of their application, which has been rightfully identified by the Officer and the Minister. A H&C application cannot be used as a way to bypass the regular refugee protection application process. As pointed out by the Minister, "risk" is not the right factor to appreciate in an H&C exemption case, and the Officer was right to distinguish between the two processes (*Kanthasamy* at para 51). The sort of "hardship" that can warrant a H&C exemption is one that goes "beyond that which is inherent in having to leave Canada" (*Rocha v Canada (Citizenship and Immigration)*, 2015 FC 1070 at para 17). Mr. Nyabuzana and Ms. Nzeyimana have submitted a large amount of objective evidence, but they have failed to submit sufficient credible evidence detailing their personal circumstances and supporting their narrative claims. Such evidence cannot exempt Mr. Nyabuzana and Ms. Nzeyimana from the statutory requirement of making a permanent residency application from outside Canada, especially in a context where they will not be removed until the situation improves in Burundi due to the existing ADR.

[28] In *Kanthasamy*, the SCC clarified the legal test that Minister's representatives must use to assess applications based on H&C considerations under subsection 25(1) of the IRPA. The SCC ruled that *Chirwa v Canada (Minister of Citizenship and Immigration)* (1970), IAC 338 [*Chirwa*] had set out an important guiding principle, which must now govern the assessment of applications based on H&C considerations: "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” (*Kanthasamy* at para 21).

[29] It is no longer sufficient to examine H&C considerations solely through the lens of hardships, and immigration officials should no longer use the terms “unusual and undeserved or disproportionate hardship” so as to limit their ability to consider and give weight to all relevant H&C considerations in a specific case (*Kanthasamy* at para 33). A reviewing court must therefore be satisfied that the approach outlined in *Kanthasamy* is reflected in the reasons of the administrative decision maker and that, in his or her analysis, the decision maker properly considered not just hardships but all relevant H&C considerations in a broader sense.

[30] That said, just because immigration officials must try to “relieve the misfortunes” of an applicant does not mean that they should automatically grant an application based on H&C considerations. The *Chirwa / Kanthasamy* language certainly does not call for a given result. Instead, the approach necessitates a certain mindset and disposition on the part of immigration officers, and it dictates a certain path to be followed in their analysis of the evidence in order to echo the objective of the provisions related to H&C considerations. Immigration officers, however, retain their discretion to assess the evidence, by using the specialized expertise they have in the immigration field. In other words, the approach taken in *Chirwa / Kanthasamy* with respect to applications based on H&C considerations sets the course that must be taken in the

analysis, but it does not prescribe the result at which decision makers may ultimately arrive (*Braud v Canada (Citizenship and Immigration)*, 2020 FC 132 at paras 37-39).

[31] I find that, in the case of Mr. Nyabuzana and Ms. Nzeyimana, the Officer's reasons and his analysis of the H&C considerations reflect the attitude of a person sensitive and responsive to the misfortunes of others and animated by a desire to relieve them. The *Chirwa / Kanthasamy* language dictates a certain approach to be followed in the analysis of the evidence, in line with the overarching purpose of H&C provisions like subsection 25(1) of the IRPA. Here, I am satisfied that the Officer reasonably embarked on the prescribed road and treated Mr. Nyabuzana and Ms. Nzeyimana's application under the lens established in *Kanthasamy*.

[32] Most of Mr. Nyabuzana and Ms. Nzeyimana's arguments are grounded in their criticism of the Officer's assessment of the evidence submitted in this case. However, on judicial review, a reviewing court must not re-weigh and reassess the evidence brought before the decision maker. A reviewing court is only permitted to interfere with factual findings of an administrative decision maker in exceptional circumstances (*Vavilov* at para 125; *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 [*CHRC*] at para 55; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paras 61, 64; *Garcia v Canada (Citizenship and Immigration)*, 2020 FC 16 at para 16). In particular, considerable deference is owed to the weight given to the assessment of H&C factors made by an officer (*Wang v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 705 at para 29). As long as all the evidence has been properly examined, the question of the weight remains entirely within the

expertise of the immigration officer (*Lopez v Canada (Citizenship and Immigration)*, 2013 FC 1172 at para 31). That is the case here.

[33] As pointed out by the Minister, it also bears reminding that the H&C threshold is a very high one to meet in which the onus to submit sufficient evidence to warrant the exception is on the applicants (*Qureshi v Canada (Citizenship and Immigration)*, 2020 FC 88 at para 10; *Kisana v Canada (Citizenship and Immigration)*, 2009 FCA 189 at para 45). On that note, the SCC in *Kanthasamy* underlined that "[t]here will inevitably be some hardship associated with being required to leave Canada. This alone will not generally be sufficient to warrant relief on humanitarian and compassionate grounds under s. 25(1), […] [n]or was s. 25(1) intended to be an alternative immigration scheme" (*Kanthasamy* at para 23). Indeed, a H&C exemption is an exceptional and discretionary remedy (*Canada (Minister of Citizenship and Immigration) v Legault*, 2002 FCA 125 at para 15), sitting outside the normal immigration classes or refugee protection streams by which foreign nationals can come to Canada permanently.

[34] In this case, Mr. Nyabuzana and Ms. Nzeyimana failed to meet the burden for the exemption they sought. Indeed, they mostly submitted objective evidence of general risk in the country, and did not provide sufficient evidence supporting their claims, establishing the severity of their personal circumstances in Burundi, and drawing a nexus between their situation and the conditions prevailing in Burundi. The absence of clear relationship between their personal situation and the general country conditions cannot support the granting of permanent residency via a H&C exemption (*Laguerre v Canada (Citizenship and Immigration)*, 2020 FC 603 at para 28). Turning to the few elements of evidence that were indeed personal in nature, I agree with

the Minister that the Officer was right to lend them little credence. The email from Mr. Nyabuzana and Ms. Nzeyimana's son, who was allegedly in hiding at the time of writing, contains an unusual level of detail corroborating the couple's claim. Additionally, a letter submitted by Mr. Nyabuzana and Ms. Nzeyimana's daughter only contained information that could be found in her parents' own sworn affidavits. The couple had the time to gather evidence regarding their living conditions in Burundi and Mr. Nyabuzana's degree of involvement with the UPD, given that the alleged episodes of persecution happened over a period of several months. However, they have not done so nor have they explained why they were unable to do it.

B. ***Ignorance of evidence and focus on irrelevant considerations***

[35] As a second argument, closely tied to the first one, Mr. Nyabuzana and Ms. Nzeyimana claim that the Officer was wrong to conclude that the evidence submitted was insufficient to ground an allegation of hardship. They further submit that the Officer's findings throughout the Decision were made with little consideration for the evidence before him, and that they bear the mark of selective review.

[36] According to the applicants, the Officer adopted a restrictive definition of the groups at risk of persecution by the Burundian regime, thereby excluding Mr. Nyabuzana and Ms. Nzeyimana as potential victims of persecution. They had in fact submitted evidence that Mr. Nyabuzana was a member of the UPD, and that he had been targeted and threatened for his refusal to join and to contribute financially to the ruling party. Additionally, the couple argues that the Officer completely disregarded the evidence submitted regarding the particular hardship that persons of Tutsi ethnicity face in Burundi. Furthermore, Mr. Nyabuzana and Ms. Nzeyimana maintain that the Officer wrongly concluded to the absence of evidence regarding their living

conditions prior to fleeing Burundi. Moreover, say Mr. Nyabuzana and Ms. Nzeyimana, the Decision is unreasonable because the Officer focused on irrelevant considerations such as the fate of the couple's herd of cows and speculations on how Mr. Nyabuzana should feel regarding the loss of his farm and cattle.

[37] Further to my review of the Decision, I do not agree with Mr. Nyabuzana and Ms. Nzeyimana's contentions.

[38] Following *Vavilov*, the reasons given by administrative decision makers have taken on a greater importance and are now the starting point for the analysis. They are the primary mechanism by which administrative decision makers show that their decisions are reasonable, both to the affected parties and to the reviewing courts (*Vavilov* at para 81). They serve to state "how and why a decision was made," demonstrate that "the decision was made in a fair and lawful manner," and shield against "the perception of arbitrariness in the exercise of public power" (*Vavilov* at para 79). In short, it is the reasons that establish the justification for the decision.

[39] Here, I am of the view that the Officer's reasons provide a transparent and intelligible justification for the Decision (*Vavilov* at paras 81, 136; *Canada Post* at paras 28-29; *Dunsmuir* at para 48). They demonstrate that the Officer followed rational, coherent and logical reasoning in his analysis and that the Decision conforms to the relevant legal and factual constraints that bear on the decision maker and the issue at hand (*Canada Post Corporation* at para 30, citing *Vavilov* at paras 105-107).

[40] Ultimately, the errors alleged by Mr. Nyabuzana and Ms. Nzeyimana do not lead me "to lose confidence in the outcome reached by the decision maker" (*Vavilov* at para 122). The reasons for a decision need not be perfect or even exhaustive. They need only be comprehensible. The reasonableness standard of review is not concerned with the Decision's degree of perfection but rather its reasonableness (*Vavilov* at para 91). The standard requires that the reviewing court start with the decision and recognize that the administrative decision maker has the primary responsibility for making factual determinations. The reviewing court examines the reasons, the record and the outcome and, if there is an explanation for the result obtained, it refrains from intervening.

[41] I can appreciate that Mr. Nyabuzana and Ms. Nzeyimana may disagree with the Officer's assessment and may wish to challenge the weight given to their establishment. However, it is not for the Court to alter the weight given by the Officer to various humanitarian and compassionate considerations (*Canada (Citizenship and Immigration) v Solmaz*, 2020 FCA 126 at paras 142–146). On judicial review, the Court is not permitted to substitute its own assessment of the evidence for that of the administrative decision maker. Deference to an administrative decision maker includes deferring to its findings and assessment of the evidence (*Canada Post* at para 61). The reviewing court must in fact "refrain from reweighing and reassessing the evidence considered by the decision maker" (*CHRC* at para 55).

[42] In this case, the arguments raised by Mr. Nyabuzana and Ms. Nzeyimana regarding their degree of establishment are more an expression of their disagreement with the analysis of the evidence and the weight given to it by the Officer in the exercise of his discretion and expertise.

This is not a situation where the administrative decision maker has ignored the evidence on the record and the general factual matrix that bears on its decision, or "fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov* at para 126). It is not for the Court to change the importance given by the Officer to the various H&C considerations.

C. *Assessment of the impact of a removal on Mr. Nyabuzana's mental health*

[43] In their H&C application, Mr. Nyabuzana and Ms. Nzeyimana had submitted a Psychological Assessment Report [Report] by a registered psychologist to support their H&C application. In the Report, the psychologist diagnosed Mr. Nyabuzana with PTSD and wrote that a return to Burundi would likely result in a deterioration of Mr. Nyabuzana's current psychological state given that he would be confronted with multiple stressors which would exceed his current ability to cope, and that he would likely have a mental health breakdown. Mr. Nyabuzana and Ms. Nzeyimana submit that the Officer did not sufficiently consider the psychologist's conclusions, and thus failed to engage with the evidence about Mr. Nyabuzana's mental health in support of his H&C application. They claim that the Officer was simply concerned with the absence of evidence regarding Mr. Nyabuzana's diligence in following the psychologist's treatment recommendations.

[44] I do not agree.

[45] I do not dispute that an officer must look at the impact that a removal from Canada would have on an applicant's mental health (*Kanthasamy* at para 48), and that a failure to do so may render an officer's decision unreasonable (*Saidoun v Canada (Citizenship and Immigration),*

2019 FC 1110 at para 19). However, I find that, in this case, the Officer did in fact conduct an analysis of the psychologist's Report and was right to give it little to no weight in his assessment of the evidence. As mentioned by the Officer, the Report was based on a single session of therapy, and the psychologist's diagnosis was based on Mr. Nyabuzana's own telling of events. In addition, no evidence was submitted to support the allegation that Mr. Nyabuzana had followed the psychologist's recommendations or that his mental state had in fact deteriorated.

[46] The Officer did not simply dismiss or ignore the psychologist's Report, but decided to give it little weight, which does not make the Decision unreasonable (*Egwuonwu, v Canada (Citizenship and Immigration)*, 2020 FC 231 at para 75; *Evans v Canada (Citizenship and Immigration)*, 2021 FC 733 at para 56). It was open to the Officer to mention that Mr. Nyabuzana had not provided evidence that he had followed the psychologist's recommendations, and to note that PTSD is not a rare condition for those without status in Canada. It is up to officers to determine the weight to be given to psychological assessment reports. The Officer in this case did just that, and supplemented his conclusion with reasons. I am therefore satisfied that, in the circumstances, the Officer acted reasonably in deciding to give little weight to the Report.

IV. Conclusion

[47] For all the reasons stated above, the Decision by which the Officer dismissed Mr. Nyabuzana and Ms. Nzeyimana's application based on H&C considerations constituted a reasonable outcome based on the law and the evidence, and it has the requisite attributes of transparency, justification and intelligibility. According to the reasonableness standard, it is

sufficient for the Decision to be based on an inherently coherent and rational analysis, and to be justified having regard to the legal and factual constraints to which the decision maker is subject. That is the case here. I must therefore dismiss this application for judicial review.

[48] There are no questions of general importance to be certified.

JUDGMENT in IMM-3219-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed, without costs.

2. No question of general importance is certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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