

Federal Court



Cour fédérale

Date: 20220203

Docket: IMM-823-21

Citation: 2022 FC 126

St. John's, Newfoundland and Labrador, February 3, 2022

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

LEE JEFFCOATE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Lee Jeffcoate (the “Applicant”) seeks judicial review of the decision of a Senior Immigration Officer (the “Officer”), refusing his application for permanent residence from within Canada, on Humanitarian and Compassionate (“H&C”) grounds pursuant to subsection 25 (1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a British national. He came to Canada in 2007 to visit his then girlfriend. When she became pregnant in 2008, he stayed in Canada and has remained in the country since his arrival. A son was born in 2008. The Applicant parted company from the girlfriend and is the sole custodian of his son.

[3] The Applicant is now engaged to a Canadian citizen who is the mother of three minor children.

[4] The Applicant made an H&C application in 2016; it was refused. He submitted a second application in September 2019 based upon his establishment in Canada, the best interests of his Canadian born child and the children of his fiancée, his health and medical conditions, and risk and country conditions in England.

[5] In the second application, the Applicant focused on the many social needs, and psychological and health conditions of his son. His H&C submissions included medical reports and materials about the various medications prescribed to address the needs of his son, as well as school records.

[6] The Officer addressed the issues of establishment, best interests of the Applicant's son, the social ties with his fiancée and her children, the Applicant's own health issues, as well as the issues of risk and country conditions in England.

[7] The Officer concluded that in spite of his lengthy stay in Canada, the Applicant had not shown significant establishment, that there was no medical evidence that the needs of his son could not be met in England, and that there was insufficient evidence to show his degree of attachment to his fiancée and her children.

[8] The decision of the Officer is reviewable on the standard of reasonableness, pursuant to the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.).

[9] In considering reasonableness, the Court is to ask if the decision under review “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 that decision”; see *Vavilov, supra* at paragraph 99.

[10] The Applicant argues that the decision is unreasonable because the Officer failed to reasonably assess the evidence about the many special needs of his child. He also submits that the Officer failed to reasonably assess how the evidence about his personal circumstances impacted the assessment of the best interests of his child.

[11] The Minister of Citizenship and Immigration (the “Respondent”) argues that the Officer reasonably assessed the evidence and that the decision meets the legal standard of reasonableness.

[12] The evidence set out in the Certified Tribunal Record shows that the Applicant's son has many different serious social and psychological conditions. The Officer acknowledged the supports in place for the son in Canada but, in my opinion, did not explain how the best interests of the Applicant's child are served by the potential relocation of that child to another country.

[13] It follows that the decision does not meet the legal standard of reasonableness.

[14] In the result, the application for judicial review is allowed, the decision of the Officer is set aside and the matter is remitted to another officer for redetermination. There is no question for certification proposed.

JUDGMENT in IMM-823-21

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside and the matter is remitted to another officer for redetermination. There is no question for certification proposed.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-823-21

STYLE OF CAUSE: LEE JEFFCOATE v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE
BETWEEN TORONTO, ONTARIO AND ST. JOHN'S,
NEWFOUNDLAND AND LABRADOR

DATE OF HEARING: JANUARY 31, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: FEBRUARY 3, 2022

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