Federal Court  Cour fédérale

Date: 20240126

Docket: IMM-241-23

Citation: 2024 FC 129

Ottawa, Ontario, January 26, 2024

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

HARBI IMAD SAEED SAEED, MARIAM NEMAT KAREEM AL-AAYAR and TAYM HARBI IMAD IMAD and ROTELLA HARBI IMAD IMAD (by their Litigation Guardian HARBI IMAD SAEED SAEED)

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicants, Harbi Imad Saeed Saeed and his spouse Mariam Nemat Kareem Al-Aayar [Ms. Al-Aayar] and their two children, seek judicial review of the decision of a Migration Officer [the Officer] at the Embassy of Canada in Amman Jordan, denying their application for permanent residence as privately-sponsored refugees pursuant to subsection 139(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [the *Regulations*]. The Officer

found that the Applicants were not members of the “Convention Refugee Abroad” class or “Humanitarian-protected Persons Abroad” class, nor were they members of the “Country of Asylum” class.

[2] For the reasons that follow, the Application is granted. The Officer failed to assess whether the Applicants were members of the Country of Asylum Class and concluded, without analysis or explanation, that they were not. The decision cannot be read in a manner to “connect the dots” to provide a rationale for this conclusion.

I. Background

[3] The Applicants, a family of four, are Chaldean Christians from Iraq. The Applicants recount that while Ms. Al-Aayar was working as an x-ray therapist at a hospital in Baghdad, she was threatened by the family of a patient that she was treating who had died. The deceased patient’s family confronted Ms. Al-Aayar and accused her of intentionally killing the patient. The Applicants recount that hospital guards helped her and the treating doctor escape. The Applicants further recount that hospital colleagues advised her to stay away because other family members and militia returned to the hospital afterwards seeking Ms. Al-Aayar. The Applicants claim that Ms. Al-Aayar was targeted and threatened by this family in part due to her religion and because she is a medical professional.

[4] The Applicants moved to Ms. Al-Aayar’s parents’ home for four weeks, obtained visas to travel to Jordan, and relocated to Jordan in March 2021.

[5] The Applicants submitted a refugee application through the Private Refugee Sponsorship Program [PRSP] in July 2021. The sponsorship was organized by the Asmaro Chaldean Society, a Sponsorship Agreement Holder [SAH] based in Windsor, Ontario. The Applicants were interviewed by the Officer in Jordan on September 21, 2022 with the aid of an interpreter.

[6] The Officer questioned Ms. Al-Aayar about the threat and why she did not consider moving to a different part of Baghdad or Iraq, given that the Applicants had not experienced other threats while staying with family. She responded that "[i]n general, the situation in Iraq is very bad, it wasn't [*sic*] good". She later responded to a similar question that "even if you change your job or your house, you are still in fear".

[7] Ms. Al-Aayar responded to the Officer's other questions noting, among other things, that: the family of the deceased patient knew that she was Christian because she did not wear a hijab, and she wore a cross; she and her husband had not made any arrangements for a sponsorship application before they left Iraq; and, that their relative advised them to leave quickly and that their relative would arrange "everything".

II. The Decision under Review

[8] The Decision consists of the Officer's letter, dated November 7, 2022, and the Officer's Global Case Management System [GCMS] notes taken at the time of the interview and the conclusions reached the following day. As with other GCMS notes, the notes reflect the Officer's questions and the Applicants' answers, often without punctuation or other grammatical requirements.

[9] The GCMS notes constitute the Officer's reasons for refusing the Applicants' permanent residence application as privately-sponsored refugees. The Officer accepted that Ms. Al-Aayar was threatened by the family of the deceased patient. The Officer found that the Applicants did not meet the definition of Convention refugee because the threat was based on Ms. Al-Aayar's employment at a hospital, not because of her religion, noting that the doctor, who also treated the deceased patient, is not a Christian and was also threatened.

[10] The Officer found it "unusual" that the Applicants fled Iraq after only one threat, noting that they did not experience other threats in the weeks following the incident before they relocated to Jordan. The Officer noted their concern that the Applicants had not considered changing their jobs or moving within the city or within Iraq.

[11] The Officer also found that the timing of the sponsorship application and its approval was "unusually fast", which led the Officer to believe that the Applicants had made arrangements for their sponsorship then fled in order for the sponsorship to be processed.

[12] The decision letter summarizes the Officer's conclusions, which are also set out in the GCMS notes. The letter states:

> Based on all docs [*sic*] on file including interview, I am not satisfied that you have a well-founded fear of persecution based on an established ground, i.e.: religion, nor am I satisfied that you and your family fled Iraq for fear of persecution but rather, at least in part, due to the possibility of a sponsorship in Canada. Accordingly, I am not satisfied that you meet the definition of a refugee as per A96, and I am also not satisfied that your family meets the definition of a refugee as per A96, as their application is based on the same Basis of Claim. In addition, I am not satisfied that you and your family meet the definition of a refugee as per R.147(b), specifically, that you have been and continue to be

> seriously and personally affected by civil war, armed conflict or a massive violation of human rights.

III. The Statutory Provisions

[13] Pursuant to subsection 13(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] and section 138 of the *Regulations*, a group, corporation, unincorporated organization or association may sponsor a Convention refugee or person in similar circumstances. The Asmaro Chaldean Society is a SAH for the purpose of sponsorship under the IRPA and the *Regulations*.

[14] Pursuant to subsection 139(1) of the *Regulations*, a permanent resident visa shall be issued to a foreign national in need of refugee protection if the criteria are met. Paragraph 139(1)(e) requires that "the foreign national is a member of one of the classes prescribed by this Division".

[15] The Applicants sought protection as members of the "Convention Refugees Abroad" class under sections 144-145 of the *Regulations*, or as "Member of country of asylum class" (under section 147 of the *Regulations*):

Convention refugees abroad class	**Catégorie**
144 The Convention refugees abroad class is prescribed as a class of persons who may be issued a permanent resident visa on the basis of the requirements of this Division.	**144** La catégorie des réfugiés au sens de la Convention outre-frontières est une catégorie réglementaire de personnes qui peuvent obtenir un visa de résident permanent sur le fondement des exigences prévues à la présente section.

Member of Convention refugees abroad class	**Qualité**
145 A foreign national is a Convention refugee abroad and a member of the Convention refugees abroad class if the foreign national has been determined, outside Canada, by an officer to be a Convention refugee.	**145** Est un réfugié au sens de la Convention outre-frontières et appartient à la catégorie des réfugiés au sens de cette convention l'étranger à qui un agent a reconnu la qualité de réfugié alors qu'il se trouvait hors du Canada.
…	…
Member of country of asylum class	**Catégorie de personnes de pays d'accueil**
147 A foreign national is a member of the country of asylum class if they have been determined by an officer to be in need of resettlement because	**147** Appartient à la catégorie de personnes de pays d'accueil l'étranger considéré par un agent comme ayant besoin de se réinstaller en raison des circonstances suivantes :
(a) they are outside all of their countries of nationality and habitual residence; and	**a)** il se trouve hors de tout pays dont il a la nationalité ou dans lequel il avait sa résidence habituelle;
(b) they have been, and continue to be, seriously and personally affected by civil war, armed conflict or massive violation of human rights in each of those countries.	**b)** une guerre civile, un conflit armé ou une violation massive des droits de la personne dans chacun des pays en cause ont eu et continuent d'avoir des conséquences graves et personnelles pour lui.

IV. The Standard of Review

[16] The standard of review of the Officer's decision is reasonableness (*Anku v Canada (Citizenship and Immigration)*, 2021 FC 125 at para 8; *Canada (Minister of Citizenship and Immigration v Vavilov*, 2019 SCC 65 at para 25 [*Vavilov*]; *Ravichandran v Canada (Citizenship and Immigration)*, 2018 FC 811 at para 31; *Mushimiyimana v Canada (Citizenship and Immigration)*, 2010 FC 1124 at para 21).

[17] A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). The reviewing court must ensure that the decision is justifiable, intelligible, and transparent (*Vavilov* at para 95).

[18] For a decision to be set aside, the reviewing court must determine that the shortcomings or flaws must be central to the decision (*Vavilov* at para 100), which includes irrational reasoning and indefensible outcomes in light of the relevant factual and legal constraints (*Vavilov* at para 101).

[19] In *Vavilov*, the Supreme Court of Canada confirmed that a reviewing court cannot read in reasons that might have existed where a contextual reading and connecting the dots does not provide the reasons. The Court stated (at para 97):

> [97] Indeed, *Newfoundland Nurses* is far from holding that a decision maker's grounds or rationale for a decision is irrelevant. It instead tells us that close attention must be paid to a decision maker's written reasons and that they must be read holistically and contextually, for the very purpose of understanding the basis on which a decision was made. We agree with the observations of Rennie J. in *Komolafe v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 431, 16 Imm. L.R. (4th) 267, at para. 11:
>
> > *Newfoundland Nurses* is not an open invitation to the Court to provide reasons that were not given, nor is it licence to guess what findings might have been made or to speculate as to what the tribunal might have been thinking. This is particularly so where the reasons are silent on a critical issue. It is ironic that *Newfoundland Nurses*, a case which at its core is about deference and standard of review, is urged as authority for the supervisory court to do the task that the decision maker did not do, to supply the reasons that might have been given and make findings of fact that were not made. This is to

> turn the jurisprudence on its head. *Newfoundland Nurses* allows reviewing courts to connect the dots on the page where the lines, and the direction they are headed, may be readily drawn.

V. The Applicant's Submissions

[20] The Applicants submit that the Officer erred by: failing to consider all possible grounds of persecution; concluding that one threat was insufficient to constitute persecution; drawing negative conclusions from the "unusually fast" sponsorship; failing to consider the known country conditions in Iraq; and, concluding that the Applicants were not members of the Country of Asylum class without any assessment and without providing reasons for this conclusion.

[21] First, the Applicants submit that the Officer did not consider any other grounds of persecution except religion.

[22] The Applicants submit that the Officer's failure to consider all of the possible grounds for granting refugee status is an error (citing *Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at para 80 [*Ward*]; *Pastrana Viafara v Canada (Citizenship and Immigration)*, 2006 FC 1526 at para 6).

[23] The Applicants submit that because applications for permanent residence abroad do not require an applicant to indicate the grounds upon which the applicant bases their claim for refugee protection, the officer has a duty to consider all relevant grounds. They also note that the unique position of overseas asylum claimants, who are not represented by counsel, further supports the officer's duty to consider all grounds (*Nabizadeh v Canada (Citizenship and*

Immigration), 2012 FC 365 at para 49). They add that officers must consider overlapping or "cumulative" grounds for granting refugee status.

[24] The Applicants argue that the Officer unreasonably concluded that because the doctor who was also targeted was not a Christian, Ms. Al-Aayar could not have been targeted because she is Christian.

[25] More specifically, the Applicants submit that the Officer failed to consider whether Ms. Al-Aayar was threatened due to her membership in a particular social group; i.e., as a female healthcare professional at a hospital in Baghdad. The Applicants point to a publication from the United Nations High Commissioner for Refugees [UNHCR] titled "International Protection Considerations with Regard to People Fleeing the Republic of Iraq" (May 2019) [UNHCR Report]. The UNHCR Report notes that individuals falling into one or more of the following categories may be in need of international refugee protection, depending on the circumstances:

> …
>
> 5. Members of religious and minority ethnic groups;
>
> …
>
> 8. Women and girls with certain profiles or in specific circumstances, in particular women in the public sphere;
>
> …
>
> 11. Individuals targeted as part of a tribal conflict resolution, including blood feuds…

[26] The Applicants also point to a UNHCR Report that notes that "accusations of unprofessional conduct of professionals are reported to have led to acts of retribution by relatives and members of tribes, including against doctors and teachers".

[27] Second, the Applicants argue that the Officer erred by concluding that one threat was insufficient to constitute persecution on a convention ground (citing *Junusmin v Canada (Citizenship and Immigration)*, 2009 FC 673 at para 55).

[28] The Applicants submit that the Officer made speculative and incorrect assumptions without regard to the country conditions in Iraq – i.e., that it is unreasonable to flee based on a single threat – and, therefore, the Applicants did not have a well-founded fear of persecution.

[29] Third, the Applicants argue that the Officer's concern that their sponsorship was prepared "unusually fast" coloured the Officer's assessment of their application.

[30] The Applicants submit that the possibility of a sponsorship at the time they fled Iraq and their fear of persecution are not mutually exclusive; to flee in order to seek asylum is a reasonable course of action. The Applicants suggest that the Officer's concern misses the point of the need for and process of refugee protection through a private sponsorship.

[31] The Applicants note that family involvement in private refugee sponsorship or with a SAH is common, and the timeline of four months is not unusually fast where the sponsors and family are motivated, have the capacity to submit the paperwork quickly, and whether the SAH has an allocation available. The Applicants submit that the Officer does not explain what the

typical processing time for a sponsorship application would be and that there is no evidence to support the conclusion that their application was “unusually fast” or that this should be a negative factor. The Applicants also submit the Officer ignored their response that their sponsorship was not arranged before they left Iraq.

[32] Fourth, the Applicants submit that the Officer failed to fully consider the country conditions in Iraq. The Applicants point to *Saifee v Canada (Citizenship and Immigration)*, 2010 FC 589 at paras 30-32 [*Saifee*], where the Court stated that decisions regarding Convention refugees abroad cannot be made without reasonable knowledge of the country conditions.

[33] The Applicants further submit that if the Officer had concerns about their account of the threat, the Officer was required to test the plausibility of their account against the country conditions based on available evidence (*Ghirmatsion v Canada (Citizenship and Immigration)*, 2011 FC 519 at para 69; *Amanuel v Canada (Citizenship and Immigration)*, 2021 FC 662 at para 45).

[34] The Applicants argue that the Officer ignored documentary evidence (summarized from the UNHCR Report and news articles) regarding:

- Risk profiles and the need for international protection of religious and ethnic minority groups, women and girls, and individuals targeted as a part of a tribal conflict, including blood feuds;
- Doctors and healthcare professionals have been targeted by acts of retribution, harassment, threats, kidnapping, etc.;
- 70 per cent of Iraqi healthcare professionals are considering emigrating out of fear of reprisals;

- Fewer than 250,000 Christians remain in Iraq (down from an estimated 800,000-1.4 million pre-2002); and
- Reported violence against Christians in Iraq includes abductions, illegal arrests, unlawful detention, prevention of return, physical intimidation, assault, rape, sexual harassment, religious discrimination, etc.

[35] Lastly, the Applicants argue that the Officer erred by failing to assess whether they were members of the Country of Asylum class or explain why they were not (citing *Zafar v Canada (Citizenship and Immigration)*, 2022 FC 445 at para 16). The Applicants submit that they need not meet the definition of a Convention refugee in order to meet the criteria to be considered as a member of the Country of Asylum class.

[36] The Applicants dispute the Respondent's contention that the Officer concluded that they were safe in Iraq while residing with their parents, noting that the Officer did not address their evidence that they remained at risk in Iraq. They add that the documentary evidence demonstrates that the type of threat faced by Ms. Al-Aayar is not a one-off occurrence, but rather, is an on-going problem in Iraq and the Officer was required to look at their situation prospectively.

VI. The Respondent's Submissions

[37] The Respondent submits that the Officer did not err. The Officer considered all the grounds for refugee protection that were advanced by the Applicants, which focussed primarily on religion, and those that were relevant to the Applicants given their application and their evidence.

[38] The Respondent submits that the Applicants had the onus to establish that they met the definition of Convention refugee or were members of the Country of Asylum class and they did not do so. The Respondent notes that, although the application process is different, the definition of Convention refugee and the relevant principles governing refugee protection remain applicable, including that if a claimant can move within their country of nationality to avoid persecution, there is no need for international protection. The Respondent submits that the Officer's concerns about the Applicants' ability to change jobs or move reflects this principle.

[39] The Respondent submits that the Officer did not find that a single threat could not constitute persecution, but rather, found as a fact that the Applicants only experienced a single threat. The Respondent agrees that, depending on the circumstances, a single threat could potentially constitute persecution, but on the facts recounted by the Applicants the Officer reasonably found that it did not constitute persecution.

[40] The Respondent notes that the Applicants' evidence suggested that changing jobs and/or residences would have ensured the family's safety, given that there were no further threats from or encounters with the family of the deceased patient. The Respondent notes that in accordance with *Ward,* refugee claimants must first seek local protection or rebut the presumption of local protection by demonstrating that it is unavailable or ineffective.

[41] The Respondent disputes the Applicants' contention that the Officer misconstrued the country conditions in Iraq. The Respondent notes that the Officer did not discount or disbelieve Ms. Al-Aayar's account of the threat. The Respondent submits that the Officer's conclusions

were supported by the Applicants' story, namely, that they had moved in with family and lived there safely before they left for Jordan.

[42] The Respondent argues that the Officer's concerns regarding the "unusually fast" sponsorship does not render the decision unreasonable. The Respondent submits that the onus was on the Applicants to satisfy the Officer that they left Iraq because of a genuine risk and the Officer's comment was made in that context.

[43] The Respondent disputes that the Officer viewed the fear of persecution and the possibility of sponsorship as mutually exclusive possibilities. The Respondent submits that the Applicants' responses to the Officer's concerns about the timing of their sponsorship supported the Officer's conclusion that they left Iraq because of a possibility of a sponsorship. The Officer's notes state:

> In response to concerns that spouse and family fled Iraq rather than seeking alternative solutions within Iraq, in part due to the possibility of a sponsorship to Canada, as reflected by the timeline of events, rather than a fear of persecution, spouse stated that they continued to reside in Iraq for one month was due to visa reasons, and that the sponsor in Canada told them to leave Iraq and that he will take care of everything. This response not only did not disabuse my concern but strengthened it, as it demonstrated that the possibility of a sponsorship to Canada was suggested to spouse and family prior to fleeing Iraq.

The Respondent submits that the Officer's notes underscore the reasonableness of the ultimate determination.

[44] The Respondent submits that a liberal reading of the letter and GCMS notes supports finding that the Officer had assessed whether the Applicants were members of the Country of Asylum class and concluded – for the same reasons set out in the GCMS notes – that the Applicants did not meet the criteria. The Respondent notes that the Officer's reasons are not held to a standard of perfection.

[45] The Respondent argues that the Applicants had a duty to satisfy the Officer that they met all of the requirements of section 147 of the *Regulations* and failed to do so. The Respondent notes that the Applicants did not provide any evidence that they had been or continued to be personally and seriously affected by civil war, conflict, or massive human rights violations in Iraq.

VII. The Officer's Decision is Not Reasonable

[46] The Officer erred by concluding that the Applicants were not members of the Country of Asylum class without conducting an assessment of whether they met the criteria and without explaining why they did not.

[47] As noted in *Vavilov* at para 95, while reasons are to be read holistically and in context and the standard is not perfection, there are limits to how a reviewing court can discern reasons and "connect the dots on the page" where there are no reasons stated.

[48] Even if the Court could assume that the same reasons that led the Officer to conclude that the Applicants are not Convention Refugees Abroad also led the Officer to conclude that they

were not members of the Country of Asylum class, the reasons would lack rationality and justification. The two classes are distinct, as are the criteria. The Officer was required to assess both.

[49] In *Saifee*, the Court noted this distinction at para 39:

> [39] Members of the country of asylum class need not meet the definition of Convention refugee, and consequently need not demonstrate a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion. Rather, they must demonstrate that they are displaced outside of their country of nationality and habitual residence, and have been and continue to be seriously affected by civil war, armed conflict or massive violations of civil rights, and that there is no reasonable prospect within a reasonable period of a durable solution elsewhere for them.
>
> [40] Indeed, a foreign national may well never have been persecuted for one of the reasons set out in the definition of Convention refugee and still be eligible for protection as a member of the country of asylum class. It is consequently crucial not to confuse the cases of foreign nationals meeting the definition of Convention refugee with those meeting the criteria of the country of asylum class. [Emphasis added]

[50] The letter and the GCMS notes do not distinguish the criteria for the Country of Asylum class from that of a Convention refugee. The letter and GCMS notes merely state that the Applicants have not met the definition of a refugee under paragraph 147(b) of the *Regulations*, stating "I am not satisfied that you and your family meet the definition of a refugee as per R.147(b), specifically, that you have been and continue to be seriously and personally affected by civil war, armed conflict or a massive violation of human rights". Paragraph 147(1)(b) does not use the term "refugee", but rather requires the Officer to determine whether the applicant is "in need of resettlement" for the stated reasons. The Officer cannot simply apply the conclusion

that the Applicants were not Convention refugees to conclude that the Applicants do not meet the criteria for the Country of Asylum class.

[51] The Officer did not address whether or how the Applicants are not seriously and personally affected by the country conditions in Iraq. The Officer is presumed to be aware of the country conditions. The National Documentation Package for Iraq describes insecurity, discrimination against women, unlawful killings, and widespread human rights abuses, including persecution of religious minorities. The country condition information indicates that women and religious minorities in Iraq are at an increased risk of suffering human rights abuses and/or persecution due to their identity.

[52] The Officer's failure to meaningfully assess, with reference to the country conditions and the Applicants' account of their own circumstances, whether they met the criteria for the Country of Asylum class is a "fatal flaw" requiring the Court to find that the Officer's decision is not reasonable and that the application be redetermined.

[53] I note that because of the Officer's failure to assess the Country of Asylum class, it is unnecessary for the Court to address the Applicants' argument that the Officer's conclusion that they are not members of the Convention Refugees Abroad class is unreasonable.

[54] However, as an observation, the issues raised have highlighted the challenges to overseas applicants seeking refugee sponsorship in providing a well-supported application, and to the Migration Officers charged with making the same important determinations regarding refugee

status as the Refugee Protection Division [RPD] would make within Canada (and who usually benefit from a much more complete record and submissions on the relevant jurisprudence).

[55] The Migration Officer is tasked with making the same refugee determination as the RPD would in the event the claimant had arrived in Canada, yet the decision of the Migration Officer is simply a set of GCMS notes based on an interview with the applicant(s) and their completed form, which may include a brief narrative. Although a Migration Officer's reasons are not held to a standard of perfection, given the importance of the determination, the reasons must be comprehensive and justify the outcome. On the other hand, the Officer can only be expected to address the evidence that is provided by the applicants and the relevant country conditions.

[56] Courts should not review a Migration Officer's decision on different principles than those that apply to decisions of the RPD.

[57] Although Schedule 2 to the generic application form describes the criteria for resettlement to Canada, the form does not require that applicants specify the ground(s) of persecution that they claim. The form does not set out any of the other principles of international refugee protection that may thwart an application. Applicants abroad are not generally assisted by Counsel. It would, therefore, be preferable if Migration Officer's alerted applicants to the grounds for refugee protection, humanitarian-protected persons, and members of the country of asylum class, and to explain to the applicant that it is their onus to establish such grounds. In the event of a negative decision and an application for judicial review, the Officer's conclusions regarding whether an applicant had met their onus to establish the basis of their claim for refugee status could then be assessed in this context.

VIII. No costs are warranted

[58] The Applicants submit that there are special reasons to grant costs to them, due to blatant errors made by the Officer.

[59] I find that costs are not warranted. Although a Court may find that a decision in an immigration matter is not reasonable and should be remitted for redetermination, which will prolong the application, this is not – on its own – a basis for awarding costs. As noted by the Federal Court of Appeal in *Jones v Canada (Minister of Citizenship and Immigration*), 2006 FCA 279: "[c]osts are not awarded in proceedings arising under the *Immigration and Refugee Protection Act*, unless "for special reasons" the Court so orders: *Federal Court Immigration and Refugee Protection Rules*, SOR/93-22, section 22" (at para 26).

[60] In *Johnson v Canada* (*Minister of Citizenship and Immigration*), 2005 FC 1262 [*Johnson*], the Court noted that "[s]pecial reasons may be found if one party has unnecessarily or unreasonably prolonged proceedings, or where one party has acted in a manner that may be characterized as unfair, oppressive, improper or actuated by bad faith" (at para 26). The threshold for establishing these special reasons is high (*Green v Canada (Citizenship and Immigration)*, 2016 FC 698 at para 40).

[61] The Applicants have not established such special reasons: there is no evidence that the Officer or Respondent unnecessarily prolonged the proceedings, or acted in an unfair, oppressive or improper manner, or acted in bad faith (*Johnson* at para 26).

JUDGMENT in IMM-241-23

THIS COURT'S JUDGMENT is that:

1. The Application for Judicial Review is granted.
2. The matter will be redetermined by a different Migration Officer.
3. There is no question for certification.

"Catherine M. Kane"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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