Federal Court  Cour fédérale

Date: 20240903

Docket: IMM-824-23

Citation: 2024 FC 1367

Ottawa, Ontario, September 3, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

ANGELA VICTORIA SIGRID PLANAS

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 41-year-old citizen of the Philippines. She identifies as lesbian. The applicant came to Canada in January 2018 to join her then-long-distance romantic partner. The two were married shortly after the applicant arrived. The applicant soon discovered, however, that her spouse was controlling and abusive and the relationship broke down as a result. A spousal sponsorship application, which had been submitted in February 2020, was withdrawn in May 2021.

[2] In January 2022, the applicant applied for permanent residence in Canada on humanitarian and compassionate (H&C) grounds under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). She sought an exemption from the in-Canada selection criteria based on her establishment in Canada and the hardship she would face if she were required to return to the Philippines. The applicant, who had legal training outside Canada and who has since become a member of the Ontario Bar, prepared the application herself.

[3] The application was refused by a Senior Immigration Officer in a decision dated January 4, 2023. The officer was not satisfied that H&C considerations warranted an exemption from the usual requirements for obtaining permanent residence in Canada.

[4] The applicant, who continues to represent herself, has applied for judicial review of this decision under subsection 72(1) of the *IRPA*. Despite her capable submissions, the applicant has not established any basis for this Court to interfere with the officer's decision. As a result, her application for judicial review must be dismissed.

[5] It is well established that the merits of an H&C decision should be reviewed on a reasonableness standard (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 44). While the applicant cast some of her grounds for review in procedural fairness terms, I am satisfied that all of her submissions relate to the overall reasonableness of the decision.

[6] 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"

(*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision that displays these qualities is entitled to deference from a reviewing court (*ibid*.). The onus is on the applicant to demonstrate that the officer's decision is unreasonable. To set aside a decision on this basis, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[7] When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances (*Vavilov*, at para 125). Nor is it the court's role to reweigh or reassess the factors the officer considered in determining whether H&C relief was warranted. Given the discretionary nature of H&C decisions (*Canada (Minister of Citizenship and Immigration) v Legault*, 2002 FCA 125 at para 15), generally the decision maker's determinations will be accorded a considerable degree of deference by a reviewing court (*Williams v Canada (Citizenship and Immigration)*, 2016 FC 1303 at para 4).

[8] In summary, in concluding that the applicant had not established that H&C relief was warranted, the officer found as follows:

- The officer empathized with the situation in which the applicant had found herself after she uprooted her life and moved to Canada for the sake of a relationship that turned out to be toxic and soon broke down.

- The applicant's establishment in Canada was entitled to some weight given her employment and education history here. At the same time, her establishment is not so

significant that she would experience hardship if she were required to leave Canada. Notably, the applicant does not have any family in Canada and she provided little evidence regarding the friendships and social or professional ties she had formed in Canada.

- The officer acknowledged the applicant's concerns about reintegration in the Philippines, both socially and economically. The officer accepted that conditions for LGBTI individuals in the Philippines are not as favourable as they are in Canada. The officer gave some weight to the prospect that the applicant may experience discrimination there.

- On the other hand, the applicant herself had successfully pursued advanced education and high-level employment in the Philippines and she did not recount any personal experiences of discrimination or harassment while living and working there or when she visited there with her then-spouse.

- While the applicant's employment history in the Philippines had been interrupted, and she would face a period of adjustment if she returned there, the officer was satisfied that the applicant "would be returning to a place where she has family ties, a history of community involvement, a professional network from her experience with multiple government employers, all factors which could reasonably assist the applicant in re-establishing herself in the Philippines."

- The applicant now has international experience and accreditation in addition to her education and work experience in the Philippines. The officer found that the applicant had not established "that she could not draw on the combination of her domestic and

> international experiences and education to further increase her marketability and secure employment to meet her needs in the Philippines."

[9] The applicant contends that the officer's weighing of the H&C considerations in her case is unreasonable; however, in my view, she is simply disagreeing with the weight the officer attributed to the individual factors present in this case and with the officer's overall balancing. The officer's reasons are detailed and comprehensive. They demonstrate that the officer gave careful attention to all of the H&C considerations arising in the applicant's case within the legal constraints of the discretion granted to the officer under subsection 25(1) of the *IRPA*. I cannot agree with the applicant that the decision suggests that the officer was searching for reasons to refuse the application.

[10] On the information before the officer, which is the only information I can consider when assessing the reasonableness of the decision, the officer's findings are transparent and justified. There is a clear and intelligible line of analysis leading to the ultimate conclusion. While the applicant is understandably disappointed with the decision, she has not identified any flaws in the officer's analysis that would permit me to interfere with the conclusion that, on the record before the officer, H&C relief was not warranted.

[11] For these reasons, the application for judicial review must be dismissed.

[12] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-824-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-824-23
STYLE OF CAUSE:	ANGELA VICTORIA SIGRID PLANAS v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
DATE OF HEARING:	JANUARY 24, 2024
JUDGMENT AND REASONS:	NORRIS J.
DATED:	SEPTEMBER 3, 2024

APPEARANCES:

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