

Federal Court



Cour fédérale

**Date: 20240927**

**Docket: IMM-9137-23**

**Citation: 2024 FC 1530**

**Ottawa, Ontario, September 27, 2024**

**PRESENT: Mr. Justice O'Reilly**

**BETWEEN:**

**DAVID MUNOZ MARTINEZ,  
PEDRO DAVID MUNOZ GALLARDO  
ROSALBA GALLARDO GUTIERREZ**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Mr David Munoz Martinez, a citizen of Mexico, has obtained a series of work permits allowing him to live off and on in Canada since 2007. Since 2017, he has lived here with his family, working as a valued manager and supervisor at a horse farm in Caledon, Ontario.

[2] In 2022, Mr Martinez applied for permanent residence from within Canada based on humanitarian and compassionate (H&C) grounds. An immigration officer dismissed the application, concluding that there were insufficient factors favouring H&C relief.

[3] Mr Martinez submits that the officer's decision was unreasonable because it discounted his contribution to his employer's farm, unfairly faulted him for his limited English language skills, failed to take adequate account of the dangerous conditions the family would face if they returned to Mexico, and conflated the key issues of establishment in Canada and hardship on removal. He asks me to quash the officer's decision and order another officer to reconsider the H&C application.

[4] I am satisfied that the officer erred in assessing the issues of establishment and hardship, and I will allow this application for judicial review on that basis. I need not consider the other issues Mr Martinez raised.

[5] The sole issue is whether the officer's decision was unreasonable.

## II. Was the Officer's Decision Unreasonable?

[6] On the issue of establishment, the officer credited Mr Martinez for his employment, savings, and payment of taxes. The officer did not cite any details about Mr Martinez's work history or his relationship with his employers – an elderly couple who depend heavily on Mr Martinez to run the horse farm.

[7] On the other hand, with respect to hardship, the officer found that Mr Martinez had shown an ability to adapt to his new life in Canada by acquiring skills and experience in his job. The officer concluded that Mr Martinez's adaptability showed that he would experience little hardship if he returned to Mexico.

[8] In short, the officer overlooked important evidence of Mr Martinez's establishment, but used that evidence against his claim of hardship.

[9] There is nothing inherently wrong with an officer noting an applicant's positive characteristics in respect of establishment and considering those same characteristics when measuring the degree of hardship the applicant would face on return to their home country. However, it is unreasonable to fail to credit an applicant for positive factors on establishment and then use the same factors to discredit the applicant's claim of hardship.

[10] Therefore, I find that the officer's decision in respect of establishment and hardship was unreasonable.

### III. Conclusion and Disposition

[11] The officer did not reasonably balance the evidence supporting Mr Martinez's H&C application. I must, therefore, allow this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT IN IMM-9137-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is allowed and the matter is returned to another officer for reconsideration.
2. No question of general importance is stated.

"James W. O'Reilly"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-9137-23  
**STYLE OF CAUSE:** DAVID MUNOZ MARTINEZ ET AL v. THE  
MINISTER OF CITIZENSHIP & IMMIGRATION  
**PLACE OF HEARING:** TORONTO, ONTARIO  
**DATE OF HEARING:** AUGUST 27, 2024  
**JUDGMENT AND REASONS:** O'REILLY J.  
**DATED:** SEPTEMBER 27, 2024

**APPEARANCES:**

D. Clilfford Luyt

FOR THE APPLICANTS

Maneli Bagherzadeh-Ahangar

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

D. Clilfford Luyt  
Toronto, Ontario  
Attorney General of Canada  
Toronto, Ontario

FOR THE APPLICANTS  
  
FOR THE RESPONDENT