

Date: 20090630

Docket: IMM-5172-08

Citation: 2009 FC 682

Ottawa, Ontario, June 30, 2009

PRESENT: The Honourable Madam Justice Snider

BETWEEN:

MOYA MECKESHA CAMPBELL

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. BACKGROUND

[1] The Applicant is a citizen of Jamaica who came to Canada in 2004 and made a claim for refugee protection in 2006. She alleged a well-founded fear of persecution by her ex-boyfriend in Jamaica. In a decision dated August 7, 2007, a panel of the Immigration and Refugee Board, Refugee Protection Division (RPD) rejected her claim on the basis that the Applicant was not a credible witness; the RPD found that the Applicant had “created this story with the purpose of gaining refugee status in Canada”. In May 2008, the Applicant applied for a pre-removal risk assessment (PRRA). In a decision dated October 2, 2008, an immigration officer (the PRRA

Officer) rejected her application. The Applicant now seeks judicial review of the PRRA Officer's decision.

II. ISSUES

[2] The Applicant raises the following issues:

1. Did the PRRA Officer err by taking into account an invalid affidavit?
2. Did the PRRA Officer err by taking into account an alleged risk contained in a different application made by the Applicant?
3. Did the PRRA Officer err by failing to take into account certain documentary evidence of the failure of the state to protect women who were victims of domestic abuse?

III. STANDARD OF REVIEW

[3] The decision of the PRRA Officer is reviewable on a reasonableness standard, meaning that I will not overturn a decision if "it falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 47).

IV. THE PRRA OFFICER'S DECISION

[4] The PRRA Officer's decision falls into two parts. The first step taken by the Officer was to assess whether the Applicant had provided sufficient evidence to rebut the finding of the RPD that she would not be the subject of domestic abuse if she returned to Jamaica. Having concluded that the Applicant had not met this burden, the PRRA Officer went on to consider other risks to the Applicant.

[5] The PRRA Officer's decision reflects that he considered all of the evidence that was presented in support of the application. Some of the evidence was rejected as not "new" within the contemplation of s. 113(a) of the *Immigration and Refugee Protection Act* (IRPA). The balance of the documents and submissions were considered; no evidence was ignored by the PRRA Officer.

V. THE AFFIDAVIT OF JOAN REGIS

[6] In support of her Application, the Applicant submitted a document entitled "Affidavit of Joan Regis". Contrary to the assertion of the Applicant, I am satisfied that the Officer was entitled to treat this as a valid affidavit of the Applicant. This document was obviously mistitled. Its contents, however, clearly are facts related to the case of the Applicant and the document was signed and sworn by the Applicant. There is no indication that it was only a draft document or that it was not intended to be the affidavit of the Applicant. In spite of the incorrect title, the PRRA Officer properly considered it to be the valid affidavit of the Applicant and accurately described its contents in the reasons. There is no error.

VI. EFFECTIVENESS OF STATE PROTECTION

[7] The Applicant asserts that the PRRA Officer failed to examine the evidence as to how, as a practical matter today, the state of Jamaica can effectively protect women such as the Applicant against persons who threaten to kill her, such as her ex-boyfriend. The Applicant relies on the case of *Wisdom-Hall v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 685, where Justice Hughes concluded that the RPD had erred for not undertaking that analysis. The difference in the case before me is that this is not a judicial review of an RPD decision. In this case, the RPD has already found that the Applicant's story was not credible; in other words, the RPD concluded that the Applicant was not being threatened by her ex-boyfriend. The PRRA Officer expressly considered the evidence put forward by the Applicant related to her fears of the ex-boyfriend and concluded that it was insufficient to rebut the conclusions made by the RPD. In my view, this determination was open to the Officer on the evidence.

[8] Having concluded that the Applicant had presented insufficient evidence to rebut the RPD's finding that she did not have a well-founded fear of her ex-boyfriend, the PRRA Officer was required to assess only those risks faced more generally by women in Jamaica. While the Officer did not make extensive references to the documentary evidence, I am satisfied that he recognized the problems faced by women in obtaining effective state protection. His conclusion was not unreasonable.

VII. ALLEGED RISK DISCLOSED IN H&C APPLICATION

[9] The PRRA Officer examined whether the Applicant would be at risk because “persons returning to Jamaica are often targeted because it is believed that they are taking back a lot of cash”. The Officer concluded that the documentary evidence failed to mention any such difficulties. This possible risk was not raised by the Applicant in her PRRA Application (although one wonders why not); rather it was made by her in her application for inland processing on humanitarian and compassionate (H&C) grounds. The Applicant alleges that the Officer erred by “importing” this alleged risk into the PRRA without providing her with an opportunity to address the concern. Presumably, the Applicant believes that she could somehow provide further submissions on the risks to returning wealthy individuals, even though she provided no further elaboration in her H&C application. This is a most unusual argument. The PRRA Officer was obviously attempting to address every possible risk that could face the Applicant. I would acknowledge that it is unusual for the PRRA Officer to go beyond the application at hand, other than to examine general country condition documentation. However, I can see no reviewable error where the Applicant herself had made the allegation of risk in the H&C application. This is not a case of the PRRA Officer relying on extrinsic evidence. In fact, if I ignore the section of the reasons dealing with this argument, the PRRA Officer’s decision would be no different in its outcome. Accordingly, even if there is an error in “importing” this allegation of risk from the H&C application, the error is immaterial.

VIII. CONCLUSION

[10] For these reasons, I will dismiss this application for judicial review. Neither party proposed a question for certification.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that

1. the application for judicial review is dismissed; and
2. no question of general importance is certified.

“Judith A. Snider”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5172-08

STYLE OF CAUSE: MOYA MECKESHA CAMPBELL
v. THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 16, 2009

**REASONS FOR JUDGMENT
AND JUDGMENT:** SNIDER J.

DATED: JUNE 30, 2009

APPEARANCES:

Ms. Stella Anaele FOR THE APPLICANT

Mr. Brad Gotkin FOR THE RESPONDENT

SOLICITORS OF RECORD:

Stella Anaele FOR THE APPLICANT
Barrister and Solicitor
Toronto, Ontario

John H. Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada
Toronto, Ontario