Federal Court  Cour fédérale

Date: 20120503

Docket: IMM-5089-11

Citation: 2012 FC 528

Ottawa, Ontario, May 3, 2012

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

CHUL HO PARK; KUMJA NOH

Applicants

and

THI MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

INTRODUCTION

[1] This is an application under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c. 27 (Act) for judicial review of the decision of a visa officer (Officer) at Citizenship and Immigration Canada (CIC), dated 16 May 2011, which refused the Applicants' application for permanent residence on humanitarian and compassionate (H&C) grounds under subsection 25(1) of the Act.

BACKGROUND

[2] The Applicants are both citizens of South Korea. The Male Applicant is 57 years old and the Female Applicant is 56 years old. They live together with and care for the Male Applicant's mother (Song) in Canada. The Applicants have two daughters who live in South Korea. The Male Applicant also has five siblings in Canada.

[3] The Applicants came to Canada as visitors in November 2007 to help care for the Male Applicant's father after he had a heart attack. The Male Applicant is his parents' eldest child so, according to Korean custom, his father's care fell to him. The father died in September 2008, but the Applicants remained in Canada to help care for Song.

[4] While they have been in Canada, the Respondent has granted the Applicants several extensions of their visitor status. The Certified Tribunal Record (CTR) shows they were granted an extension on 4 March 2011, which expired on 31 December 2011, but the CTR does not disclose their current status in Canada. In the time he has been here, the Male Applicant has established a consulting business. The Applicants attend a Christian church in Richmond Hill, Ontario.

[5] On 18 September 2008, the Applicants applied for permanent residence on H&C grounds (H&C Application). The Applicants drew attention to the care they provide to Song, their social ties to the community, and the Male Applicant's successful business here. The Applicants also said they and their family would face unusual and undeserved or disproportionate hardship if they had to return to South Korea. They pointed out that none of the Male Applicant's five siblings in Canada would be able to care for Song. Before the Applicants came to Canada, the Male Applicant's

parents lived alone. Since her husband has died, Song is unable to live on her own. The Applicants also noted that Song is emotionally attached to the Male Applicant.

[6] The Applicants provided updated submissions to the Officer on 15 March 2011 which pointed out that one of the Male Applicant's sisters is estranged from the family. His second sister cares for her son, who has leukemia, and a daughter who has heart disease. The Male Applicant's third sister runs a gas station in Uxbridge, Ontario. The Applicants said that none of the sisters could care for Song. The Applicants also said one of the Male Applicant's brothers has a physical disability and his other brother cares for his mother-in-law and travels frequently on business; neither of them is able to care for Song. Only the Male Applicant is able to care for his mother who relies on him.

[7] In their updated submissions the Applicants reviewed their establishment in Canada, again drawing attention to the Male Applicant's business. They also spoke about their family in Canada, including many nieces and nephews and said they do not have the same family ties in South Korea as they have in Canada.

[8] The Officer considered the H&C Application and refused it on 16 May 2011.

DECISION UNDER REVIEW

[9] The Decision in this case consists of the Officer's letter to the Applicants (Refusal Letter) and the completed Humanitarian and Compassionate Grounds Application template (Notes), both dated 16 May 2011.

[10] The Officer reviewed the Applicants' biographical information and immigration history and then considered the merits of their claim. She noted that they relied on the length of their time, establishment, and family ties in Canada as positive factors in the H&C Application. The Applicants also relied on the hardship they face if required to return to South Korea. The Officer noted the Applicants bore the onus to demonstrate they would experience unusual and undeserved or disproportionate hardship if they were not granted H&C relief.

Establishment

[11] The Officer found the Applicants had not shown they would suffer unusual and undeserved or disproportionate hardship arising from their establishment in Canada if they were required to return to South Korea. She noted they had been in Canada since November 2007 and originally came here to care for the Male Applicant's father. She also noted the Male Applicant had started a successful business and the Applicants had built up their savings in Canada.

[12] The Officer also found that the Applicants' departure from Canada would not cause their Canadian family unusual and undeserved or disproportionate hardship. She noted that the Applicants provided care and support to Song, which meant the Male Applicant's other family members did not have to care for her. The Officer found that balancing family and career obligations was a challenge many Canadian families face. She was not satisfied that, if they were required to leave Canada, other arrangements could not be made to care for Song. Although it was beneficial for Song and the Applicants to live together, their circumstances were not so exceptional that they required an exemption from the ordinary requirements for immigration to Canada.

[13] The Officer acknowledged that having family close by is desirable, and that the Male Applicant is the only member of his family who is not a Canadian resident. However, she found the Applicants could re-unite with their two daughters in South Korea if they returned there. Although leaving Canada would be difficult, the Officer was not satisfied the difficulties they faced would amount to unusual and undeserved or disproportionate hardship.

ISSUES

[14] The Applicants raise the following issues in this case:

a. Whether the Officer applied the proper test for an H&C Exemption;

b. Whether the Officer ignored their submissions;

c. Whether the Officer denied them the opportunity to respond;

d. Whether the Decision was reasonable;

e. Whether the Officer provided adequate reasons;

f. Whether the Officer breached their rights to life, liberty, and security of the person under section 7 of the *Charter of Rights and Freedoms* being Schedule B to the *Canada Act 1982* (UK) 1982, c11 (Charter).

STANDARD OF REVIEW

[15] The Supreme Court of Canada, in *Dunsmuir v New Brunswick* 2008 SCC 9, held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of review applicable to a particular question before the court is well-settled by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless must the

reviewing court undertake a consideration of the four factors comprising the standard of review analysis.

[16] In *Herman v Canada (Minister of Citizenship and Immigration)* 2010 FC 629, Justice Paul Crampton held at paragraph 12 that the standard of review on the question of whether an officer applied the correct test in assessing an H&C application was correctness. Justice Michael Kelen made a similar finding in *Ebonka v Canada (Minister of Citizenship and Immigration)* 2009 FC 80 at paragraph 16, as did Justice Michel Beaudry in *Mooker v Canada (Minister of Citizenship and Immigration)* 2008 FC 518 at paragraph 15. The standard of review on the first issue is correctness.

[17] In *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 (QL), the Supreme Court of Canada held at paragraph 22 that procedural fairness includes "an opportunity for those affected by [a] decision to put forward their views and evidence fully and have them considered by the decision-maker." In addition, the opportunity to respond to a decision-maker's concerns is also an issue of procedural fairness (see *Karimzada v Canada (Minister of Citizenship and Immigration)* 2012 FC 152 at paragraph 10 and *Guleed v Canada (Minister of Citizenship and Immigration)* 2012 FC 22 at paragraphs 11 and 12).

[18] In *Canadian Union of Public Employees (C.U.P.E.) v Ontario (Minister of Labour)* 2003 SCC 29, the Supreme Court of Canada held at paragraph 100 that "It is for the courts, not the Minister, to provide the legal answer to procedural fairness questions." Further, the Federal Court of Appeal in *Sketchley v Canada (Attorney General)* 2005 FCA 404 at paragraph 53 held that the "procedural fairness element is reviewed as a question of law. No deference is due. The decision-maker has either complied with the content of the duty of fairness appropriate for the particular

circumstances, or has breached this duty." The standard of review on the second and third issues is correctness.

[19] In *Baker*, above, the Supreme Court of Canada held that, when reviewing an H&C decision, "considerable deference should be accorded to immigration Officers exercising the powers conferred by the legislation, given the fact-specific nature of the inquiry, its role within the statutory scheme as an exception, the fact that the decision-maker is the Minister, and the considerable discretion evidenced by the statutory language" (paragraph 62). Justice Michael Phelan followed this approach in *Thandal v Canada (Minister of Citizenship and Immigration)* 2008 FC 489, at paragraph 7. The standard of review on the fourth issue is reasonableness.

[20] In *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)* 2011 SCC 62, the Supreme Court of Canada held at paragraph 14 that the adequacy of reasons is not a stand-alone basis for quashing a decision. Rather, "the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes." The adequacy of reasons, therefore, is to be analysed along with the reasonableness of the Decision as a whole.

[21] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with "the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." See *Dunsmuir*, above, at paragraph 47, and *Canada (Minister of Citizenship and Immigration) v Khosa* 2009 SCC 12 at paragraph 59. Put another way, the Court should intervene only if the Decision was unreasonable in the sense that

it falls outside the "range of possible, acceptable outcomes which are defensible in respect of the facts and law."

[22] With respect to the breach of their Charter rights, it is well established that the onus of proving a breach of a Charter right rests with the party asserting the breach (see *R v Kapp*, 2008 SCC 41 (QL) at paragraph 66, *R v RJS*, [1995] SCJ No 10 (QL), at paragraph 280 and *Law Society British Columbia v Andrews*, [1989] 1 SCR 143 (QL) at paragraph 40). This is a question of mixed fact and law within the jurisdiction of the reviewing Court to be established on a balance of probabilities.

STATUTORY PROVISIONS

[23] The following provisions of the Act are applicable in this proceeding:

11. (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.	**11.** (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.
…	**…**
25. (1) The Minister must, on request of a foreign national in Canada who is inadmissible or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada, examine the circumstances	**25.** (1) Le ministre doit, sur demande d'un étranger se trouvant au Canada qui est interdit de territoire ou qui ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada, étudier le cas de cet

concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

ARGUMENTS

The Applicants

Improper Test

[24] The Applicants say the Officer did not apply the unusual and undeserved or disproportionate hardship test when she considered their H&C Application. They note that a previous version of CIC's manual *IP-5 – Immigrant Applications made in Canada on Humanitarian and Compassionate Grounds* (Guidelines) says that

> A positive H&C decision is an exceptional response to a particular set of circumstances. An H&C decision is more complex and more subjective than most other immigration decisions because officers use their discretion to assess the applicant's personal circumstances.
>
> Applicants must satisfy the decision-maker that their personal circumstances are such that they would face unusual, undeserved, or disproportionate hardship if required to apply for a permanent resident visa from outside Canada.

[25] Although the version of the Guidelines the Applicants rely on is no longer current, the Applicants rely on the previous version to say they meet both the unusual and undeserved hardship

and disproportionate hardship tests. On this basis, it was unreasonable for the Officer to deny the H&C Application.

[26] Contrary to the Officer's conclusion, the Applicants say their personal circumstances are unique and show they face disproportionate hardship. They point to the death of the Male Applicant's father, their proximity to Song, and their proximity to the Male Applicant's siblings as factors which demonstrate the disproportionate hardship they face. Had the Officer applied the correct test for an H&C request, she would have granted the H&C Application.

Unreasonable Decision

[27] The Applicants say the Decision was unreasonable because the Officer took into account irrelevant considerations and facts which were not in evidence. The Officer said that

> The balancing of the demands of family needs and careers are challenges faced by millions of Canadian families. Many Permanent Residence [*sic*] and Canadians are waiting patiently for their family members to come to Canada through normal immigration procedures to lend a helping hand for family needs.

[28] The experiences of other families were not relevant to what was at issue before the Officer, which was whether the Applicants' personal circumstances would lead to hardship if their H&C Application was refused. When she considered the experiences of other families, the Officer looked to irrelevant considerations.

[29] The Officer also relied on an assumption that the experience of other families is similar to what the Applicants face. She pointed to no evidence which showed this was the case, which means any findings based on this assumption were unreasonable.

[30] The Officer also drew a negative inference from the experiences of other families. They point to *Tafilica v Canada (Minister of Citizenship and Immigration)* 2003 FCT 191, where Justice James O'Reilly said at paragraph 17 that

> Here, the Board made a general finding that the applicants lacked credibility and concluded that the claimants had failed to establish "the core of their claim." Similarly, the negative inferences whose validity is challenged by the applicants were at the core of the Board's assessment of their claims and were central to its conclusion regarding the applicants' credibility. Where the Board has made clear errors in the course of arriving at such a conclusion, judicial intervention is warranted. In my view, the evidence referred to above, viewed reasonably, is incapable of supporting the Board's conclusion.

Inadequate Reasons

[31] The Officer's reasons are inadequate because they do not show how she reasoned from the evidence before her to her conclusions. The Officer did not say why the factors in their application do not amount to hardship. Although she acknowledged all the factors they put forward, the Officer said that

> I have considered all information regarding this application as a whole. Having reviewed and considered the grounds the [Applicants] have forwarded as grounds for an exemption, I do not find they constitute unusual and undeserved or disproportionate hardship. Therefore, I am not satisfied humanitarian and compassionate grounds exist to approve this exemption request.

[32] The Officer's reasons do not show how she assessed how Song depends on the Male Applicant, which was a key aspect of the H&C Application. All the Officer did was restate the evidence before her and add a conclusion, without showing how she arrived at that conclusion. The Applicants refer to *Sabbah Hermiz et al v Canada (Minister of Citizenship and Immigration)* IMM-1128-05 (unreported) where Justice Campbell relied on *Law Society of New Brunswick v Ryan* 2003

SCC 20 (QL) at paragraph 55 for the proposition that a "decision will be unreasonable only if there is no line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived."

Breach of Procedural Fairness

[33] The Applicants also argue the Officer breached their right to procedural fairness when she did not put concerns she had to them for their comment. In *Muliadi v Canada (Minister of Employment and Immigration)*, [1986] 2 FC 205 (FCA), the Federal Court of Appeal held at paragraph 14 that

> Nevertheless, I think it was the officer's duty before disposing of the application to inform the appellant of the negative assessment and to give him a fair opportunity of correcting or contradicting it before making the decision required by the statute. It is, I think, the same sort of opportunity that was spoken of by the House of Lords in *Board of Education v. Rice*, [1911] A.C. 179 in these oft-quoted words of Lord Loreburn L.C., at page 182:
>
> > They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view.

[34] Although the Officer found that alternative arrangements could be made for Song's care if the Applicants left Canada, she did not give them the opportunity to comment on this aspect of their claim. Rather than allowing them to address this issue, they Officer held it against them.

[35] In a similar way, the Officer breached the Applicants' right to procedural fairness when she found that other families in Canada faced similar circumstances. She did not put the information she

based this finding on to the Applicants, so she deprived them of the opportunity to respond to her concerns.

The Respondent

[36] The Respondent argues that the Decision should stand because the Officer applied the correct test, considered the evidence before her, and came to a reasonable conclusion. H&C relief is exceptional and discretionary and a refusal under subsection 25(1) does not take any right away from an applicant.

Preliminary Issue

[37] The Respondent objects in part to the Male Applicant's affidavit on judicial review. This affidavit contains information which was not before the Officer, so the Court should disregard it.

Correct Test

[38] The Officer clearly set out the appropriate test: whether the Applicants would experience unusual and undeserved or disproportionate hardship if she denied the H&C Application. See *Doumbouya v Canada (Minister of Citizenship and Immigration)* 2007 FC 1186. Although the Applicants have said their application could only lead to one conclusion, this is not the case. They only disagree with the way the Officer weighed the factors before her, which is not an appropriate ground for judicial review.

Officer Considered all Positive Factors

[39] The Officer did not ignore any relevant aspects of the H&C Application. She considered the Applicants' establishment and family ties in Canada and the support and care they provide to Song. Having considered all the evidence, the Officer arrived at a conclusion which is consistent with the standard the Court has articulated for H&C relief. As Justice Pelletier held in *Irimie v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 1906 (QL), at paragraph 12,

> If one then turns to the comments about unusual or undeserved which appear in the Manual, one concludes that unusual and undeserved is in relation to others who are being asked to leave Canada. It would seem to follow that the hardship which would trigger the exercise of discretion on humanitarian and compassionate grounds should be something other than that which is inherent in being asked to leave after one has been in place for a period of time. Thus, the fact that one would be leaving behind friends, perhaps family, employment or a residence would not necessarily be enough to justify the exercise of discretion.

[40] The Officer considered all the relevant factors and arrived at a reasonable conclusion, so the Decision should stand.

No Irrelevant Factors

[41] The experience of other Canadian families is relevant to an H&C application, so it was not an error for the Officer to consider this. H&C applicants must demonstrate that they face unusual hardship to ground a positive decision, which necessarily entails a comparison with the experiences of others. As Justice Eleanor Dawson held at in *Ahmad v Canada (Minister of Citizenship and Immigration)* 2008 FC 646 at paragraph 49,

> […] I accept the submission of the Minister that the definition of hardship in the context of an application for permanent residence on

> humanitarian and compassionate grounds necessitates a comparison in that an officer must first consider what is usual in order to determine what would be unusual. Contrary to the argument of the applicants, this does not introduce a subjective question which involves comparisons between an applicant and others, nor does it ignore the concept of disproportionate hardship.

[42] To determine if the hardship the Applicants faced was unusual, it was necessary for the Officer to consider what others in similar circumstances face.

No Breach of Procedural Fairness

[43] The Officer's statement that she was not satisfied that other arrangements could not be made for Song's care does not show she had a concern which the Applicants needed to address. This was a finding of fact that the Applicants were not the only people who could care for Song. The onus was on the Applicants throughout to establish that this was not the case, and they did not do so. The evidence before the Officer was that the Male Applicant has five siblings in Canada in a closely knit family. Had the Applicants wanted to provide additional evidence that they were the only ones who could care for Song, they should have put it before the Officer without waiting for her to ask.

No Evidence Alternate Arrangements Could not be Made

[44] The Officer acknowledged Song's age, health issues, and need for care and was aware of the care the Applicants provided for her. However, the Applicants did not show that other arrangements could not be made for Song's care if they left Canada. The evidence before the Officer was that Song had six children and many grandchildren in Canada, all of whom formed a supportive family. The Male Applicant's sister, in her letter to the Officer, indicated that it would be difficult, but not impossible, for her and the other siblings to care for Song if the Applicants had to leave Canada.

Although the Applicants said in their submissions that the Male Applicant's siblings would be unable to care for Song, they provided insufficient evidence that this was the case. Further, they did not show that outside care could not be arranged or that only care from a family member would suffice.

ANALYSIS

[45] The Applicants allege a range of reviewable errors which they say render the Decision either unreasonable or procedurally unfair. When examined against the Decision as a whole the Applicants' arguments are not convincing.

[46] First of all, it is obvious that the Officer applies the right test and finds the Applicants have not satisfied her that they qualify for an exemption on humanitarian and compassionate grounds. In the opening paragraph of her reasons she points out that the

> applicants bear the onus of satisfying the decision-maker that their personal circumstances are such that the hardship of not being granted the requested exemption would be i) unusual and undeserved or ii) disproportionate.

[47] The rest of the Decision goes on to examine the Applicants' personal circumstances against this test and concludes with the Officer saying she does not find the grounds put forward by the Applicants "constitute an unusual and undeserved or disproportionate hardship." The body of the reasons explain why. No reviewable error arises from the test the Officer applied.

[48] I do not accept the Applicants' assertions that the Officer failed to base the Decision on their personal circumstances, drew unwarranted negative inferences, took into account irrelevant circumstances, and did not consider the hardship of abandoning the Male Applicant's mother. My

reading of the Decision suggests entirely otherwise. All the Applicants are saying is that they disagree with the Officer's conclusion and they are attempting to dress up their disagreement as a reviewable error. Disagreement is not a form of reviewable error. See *Abdollahzadeh v Canada (Minister of Citizenship and Immigration)* 2007 FC 1310 at paragraph 29 and *Deol v Canada (Minister of Citizenship and Immigration)* 2009 FC 406 at paragraphs 70 and 71.

[49] The Applicants also say that the Decision lacks an inherent line of reasoning. The Decision, however, clearly examines the grounds for hardship put forward by the Applicants and explains why those grounds do not constitute unusual and undeserved or disproportionate hardship. The reasons could not be simpler or more coherent. There is no reviewable error on this issue.

[50] The Applicants also attempt to raise a procedural fairness issue by saying that the Officer obviously had concerns about the situation of the Male Applicant's mother which he was obliged to raise with the Applicants in advance of making the Decision.

[51] The Applicants misunderstand the jurisprudence on this point. The Officer examines the situation of the Male Applicant's mother carefully. He finds that the Applicants have not provided sufficient evidence or argument to satisfy him that, if they were to leave Canada "other adequate arrangements could not be made for the case of the mother."

[52] The onus of proof is on the Applicants to establish their case with sufficient evidence. They simply failed to do that in this case. There is no obligation on an officer to warn applicants in advance that their evidence is deficient. See *Owusu v Canada (Minister of Citizenship and Immigration)* 2004 FCA 38 at paragraph 8 and *Sharma v Canada (Minister of Citizenship and Immigration)* 2009 FC 786 at paragraph 8.

[53] As the Respondent points out, the Officer acknowledged Song's age, health issues and requirements for care. The Officer further acknowledged that the Applicants have provided care and support for Song since arriving in Canada, which has freed the Male Applicant's five siblings from those responsibilities. However, the Applicants did not show that, if they were required to leave Canada, other adequate arrangements could not be made for Song's care.

[54] The Respondent also points out that all of the Male Applicant's siblings are currently living in Canada. There is evidence that several of them live close to Toronto, where Song currently lives. Song also has many grandchildren in Canada. The Applicants' submissions suggest that the family is supportive and gathers frequently and the siblings provide financial and emotional support to the mother. None of this is challenged by the Applicants.

[55] The letter from the Male Applicant's sister indicates that it would be "difficult" — though not untenable — for the other siblings to care for the mother: "I know taking care of our mother should be our first priority; however, we all have our own families and businesses to take care of as well, making it difficult."

[56] Also, as the Respondent points out, even if it is accepted that the Male Applicant's many relatives in Canada would be unable to care for Song, there is no evidence in the record that care could not be arranged outside the family. There is no evidence that the type of care Song requires can only be provided by a family member, and not by a professional caregiver. There is also evidence that the Male Applicant's siblings are in a position to provide financial support to Song. The Applicants do not challenge this.

[57] The Male Applicant's affidavit on leave says that he and his siblings have attempted to find a caretaker for his mother, but have encountered difficulties. This submission was not made to the Officer. There is no evidence in the record that was before the Officer of any attempts to arrange alternate care for the mother. As the Respondent asserts, and as is well established in this Court, judicial review must be based on the evidence that was before the Officer when she made the Decision. There was no evidence before the Officer of the family's failed attempts to find a caretaker for Song, so the Court cannot now rely on this evidence to assess the Decision.

[58] I can find no reviewable error with this Decision. Obviously, the Applicants are disappointed and do not agree with the Officer's conclusions. But it is not the role of this Court to re-weigh the evidence and substitute its own conclusions for those of the Officer. See *Suresh v Canada (Minister of Citizenship and Immigration)* 2002 SCC 1 at paragraph 29.

[59] Counsel agree there is no question for certification and the Court concurs.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. Application for judicial review is dismissed.

2. There is no question for certification.

"James Russell"
Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	IMM-5089-11
STYLE OF CAUSE:	**CHUL HO PARK; KUMJA NOH**
	- and -
	THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	March 26, 2012
REASONS FOR JUDGMENT AND JUDGMENT:	HON. MR. JUSTICE RUSSELL
DATED:	May 3, 2012

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