

Federal Court



Cour fédérale

**Date: 20150326**

**Docket: IMM-479-14**

**Citation: 2015 FC 389**

**Toronto, Ontario, March 26, 2015**

**PRESENT: The Honourable Mr. Justice Hughes**

**BETWEEN:**

**CHERRYL CHARLES**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is a judicial review of a decision of an Officer of Citizenship and Immigration Canada dated December 31, 2013 wherein the Applicant's application for permanent residence from within Canada on Humanitarian and Compassionate grounds (H&C) was rejected.

[2] The Applicant is an adult female citizen of Grenada. She came to Canada in 1998 with her (now ex) husband and son. Her claim and that of her (ex) husband for refugee protection was

rejected in 2003. Their Pre-Removal Risk Assessment was refused in 2008. Her ex-husband was deported to Grenada. The Applicant fears for her safety at his hands were she to be deported to Grenada.

[3] The Applicant gave birth to a son in Canada in 2010. The child suffers from seizures and has speech problems. The Applicant has worked only briefly since the birth of her son and has been convicted of several criminal offences in Canada including theft, fraud and forgery.

[4] The issue on this review is a single one: did the Officer give sufficient or any consideration to this fact that the Applicant would be returned to Grenada, without having family still there, and be exposed to a potentially violent ex-husband.

[5] There was evidence in the record before the Officer as to this issue which was well summarized in the submissions of the Applicant's counsel to the Officer:

33. *If her Affidavit at Tab 7, Ms. Charles describes the abuse she underwent with her ex-husband Andrew Charles. She originally came to Canada with Mr. Charles and their son in 1998. She states:*

*He was abusive and violent, and injured me more than once. I never mentioned this during my refugee claim because he and I were in the same refugee claim. He would mistreat me in front of my older son Annel. Once I had to wear a brace on my neck for two weeks because of his violence. He cheated on me a lot, and ended up having domestic violence or abuse-related charges in regards to two different women in Canada. He was also verbally abusive and rough towards Annel.*

*My ex-husband has expressed that he is angry at me. He blames me for him getting deported from Canada. He thinks that because I got to stay in*

*Canada longer than him, that I said something to cause his deportation. He has threatened me over the phone, to the point that I had to change my phone number twice, the last time being in 2011. If sent back to Grenada, I would be afraid of him and his family.*

34. *As a single mother who has no family connections left in the country, who has not lived in Grenada for years and thus has no community support that can protect her, Mrs. Charles can easily fall victim to her ex-husband's abusive anger. The aforementioned IRB report also states that "the country is very small and perpetrators are likely to find their victims should they decide to relocate on the island."*

[6] The reasons of the Officer do not specifically refer to this submission or evidence. The reasons refer to "violence" if the Applicant were to return to Grenada and to support services there for "victims of domestic assault". Respondent's Counsel invites me to consider these references as sufficiently responsive to the issue.

[7] However, the reasons go on to state: "I do not find the applicant has linked this evidence with her own personal circumstances to demonstrate any degree of hardship in returning to Grenada". This is just plain wrong and clearly indicates that the Officer overlooked the issue of violence at the hands of the ex-husband.

[8] The matter must be returned for redetermination by a different Officer. No party requested a certified question.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that:**

1. The application is allowed;
2. The matter is returned for redetermination by a different Officer;
3. No question is certified;
4. No Order as to costs.

“Roger T. Hughes”

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Judge

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

**DOCKET:** IMM-479-14

**STYLE OF CAUSE:** CHERYL CHARLES v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 26, 2015

**JUDGMENT AND REASONS:** HUGHES J.

**DATED:** MARCH 26, 2015

**APPEARANCES:**

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