Federal Court  Cour fédérale

Date: 20180326

Docket: IMM-2421-17

Citation: 2018 FC 327

Ottawa, Ontario, March 26, 2018

PRESENT: THE CHIEF JUSTICE

BETWEEN:

PUUMUE ASTRID KANGUATJIVI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Ms. Kanguatjivi is a single mother who is a citizen of Namibia. After being denied refugee protection in this country, she sought authorization to apply for permanent residence from within Canada, based on humanitarian and compassionate grounds. That request was rejected.

[2] She submits that the Senior Immigration Officer [**the Officer**] who assessed her request erred by:

i. minimizing the factors that supported a positive weighting in relation to the degree of her establishment in Canada;

ii. failing to consider that her ex-boyfriend had threatened to harm her and her son;

iii. failing to assess the hardship that she would face as a single woman returning to Namibia with a minor child;

iv. failing to be "alert, alive and sensitive" to the best interests of her child, who has serious medical needs; and

v. failing to accord her procedural fairness.

[3] For the reasons that follow, this Application will be dismissed.

I. **Background**

[4] Ms. Kanguatjivi sought refugee protection upon her arrival in Canada in June 2012. She based her application on her fear of harm at the hands of her former boyfriend, Mr. Dave Hambira, who she believes continues to live in Namibia. She claims that Mr. Hambira became violent with her when he learned that she was pregnant with their child. She also maintains that he threatened her with further violence if she refused to get an abortion. When his wife learned of the pregnancy, she made a similar threat to Ms. Kanguatjivi. Fearing for her personal safety

and that of her unborn child, Ms. Kanguatjivi fled to Canada, where the child was born a few months later.

[5] Ms. Kanguatjivi's application for refugee protection was denied after the Refugee Protection Division [**RPD**] of the Immigration and Refugee Board of Canada found that she had a viable internal flight alternative in Walvis Bay, Namibia. That city is approximately 200 kilometres away from Windhoek, where Ms. Kanguatjivi previously lived and had a relationship with Mr. Hambira. Among other things, the RPD found that Mr. Hambira was unlikely to attempt to contact Ms. Kanguatjivi in Walvis Bay, because she had not been in contact with him for over three years and he did not appear to have the resources to pursue her there. Ms. Kanguatjivi's application to this Court for Leave and for Judicial Review of that decision was not successful.

[6] At the time of her hearing before the RPD, Ms. Kanguatjivi had two children in Canada, both of whom are boys who were born here. The eldest apparently is Mr. Hambira's biological son and is now living in Namibia. The youngest remains in Canada and has had medical conditions associated with his premature birth. According to his birth certificate, he has a different biological father than his brother.

[7] In September 2016, approximately one year after the RPD's decision, Ms. Kanguatjivi sought authorization to apply for permanent residence from within Canada, based on humanitarian and compassionate **[H&C]** grounds, pursuant to subs. 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 **[IRPA]**.

[8] Ms. Kanguatjivi's H&C application was based on the following three grounds:

i. her integration into Canadian society;

ii. the risk of harm that she would face if she were to return to Namibia, due to her personal profile; and

iii. the best interests of her three-year-old child, J, who would suffer if he remained in Canada and she were removed to Namibia, or if the two of them were removed to Namibia, where medical treatment for his condition is allegedly inadequate.

[9] The risks to which Ms. Kanguatjivi claimed she would be exposed in Namibia due to her personal profile largely consisted of her fear of "abuse, torture, disappearance and even death at the hands of the state agents in Namibia, because of her membership in a particular group." In addition, she claimed that she would face hardships as a single woman with a minor child, including abuse at the hands of men and the police, as well as difficulties associated with obtaining employment, housing and family support services.

II. **The Decision under Review [the Decision]**

[10] With respect to Ms. Kanguatjivi's establishment in Canada, the Officer found that she had not provided sufficient evidence to demonstrate a degree of establishment that would warrant relief from the general requirement in the IRPA to apply for a permanent resident visa from outside Canada.

[11] Regarding the risks of harm that Ms. Kanguatjivi claimed she would likely suffer in Namibia, the Officer found that she had not provided sufficient evidence to demonstrate that any group or individual would still be interested in causing her hardship. The Officer also found that Ms. Kanguatjivi had not explained why she would be exposed to any of the general risks that she identified, based on her personal profile. In addition, the Officer determined that Ms. Kanguatjivi had not provided sufficient evidence that country conditions would have a sufficient negative impact on her to warrant granting her H&C application.

[12] Concerning the best interests of her son J, the Officer found that Ms. Kanguatjivi had not provided sufficient objective evidence to indicate either that he is presently receiving treatment for any medical condition, or that there would be inadequate medical treatment for him in Namibia. The Officer also found that J's interests would be best served by remaining with his mother, including if her H&C application were refused.

[13] Based on the foregoing, the Officer concluded that "the H&C elements that have been presented are [not] sufficient when considered globally to warrant a visa exemption under section 25" of the IRPA.

III. **Standard of Review**

[14] The first four issues identified at paragraph 2 above are reviewable on a standard of reasonableness: *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61, at para 44 [***Kanthasamy***]; *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190, at para 53 [***Dunsmuir***]. In conducting its review on that standard, the Court's focus is upon whether the

decision under review is within the "range of possible, acceptable outcomes which are defensible in respect of the facts and law": *Dunsmuir*, at para 47. Given the "highly discretionary and fact based nature" of decisions made under s. 25 of the IRPA, immigration officers ordinarily will have a broad range of acceptable and defensible outcomes available to them: *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, at para 61 [***Baker***]; *Kanthasamy v Canada (Citizenship and Immigration)*, 2014 FCA 113, at para 84 [***Kanthasamy FCA***].

[15] The issue that Ms. Kanguatjivi has raised with respect to procedural fairness is reviewable on a standard of correctness: *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, at para 43 [***Khosa***]. In assessing that issue, the Court's focus is upon whether the Decision was procedurally fair, having regard to the applicable jurisprudence.

IV. **Analysis**

A. *Was the officer's assessment of Ms. Kanguatjivi's application unreasonable?*

[16] Ms. Kanguatjivi submits that the Officer's assessment of her application was unreasonable in several respects. I disagree.

(1) Ms. Kanguatjivi's establishment in Canada

[17] Ms. Kanguatjivi submits that the Officer erred in two ways in assessing the degree of her establishment in Canada. First, she states that the Officer ignored or minimized the factors that supported her application, including her contribution to her community. Second, she maintains

that the Officer failed to indicate how the positive and negative factors relating to the degree of her establishment were balanced.

[18] Ms. Kanguatjivi asserts that she presented evidence and submissions regarding her establishment in Canada "through employment, voluntary services and good civic records." She states that this evidence included "letters and evidence of her voluntary services and integration to the community," as well as "testimonials of support from lasting friends [sic] she has formed since living in Canada."

[19] However, no such evidence is contained in the Certified Tribunal Record [**CTR**]. With respect to "employment," Schedule A of her H&C application explicitly indicates that she had been unemployed since arriving in Canada. There was no other evidence in the CTR with respect to "employment, voluntary services and good civic records." For greater certainty, there were no testimonials, and there was only one letter. Yet that letter, written by the Head Pastor of Word Base Chapel International, did not indicate anything regarding Ms. Kanguatjivi's level of establishment in Canada. It simply expressed support for Ms. Kanguatjivi and her sons "in these difficult circumstances."

[20] In the absence of any suggestion that specific documentation was provided and not considered by the Officer or included in the CTR, the Officer's treatment of Ms. Kanguatjivi's degree of establishment in Canada was not unreasonable.

[21] Contrary to Ms. Kanguatjivi's assertions, it was not unreasonable for the Officer to have observed that she had not provided any documentation with respect to her financial situation or her alleged history of volunteering. Indeed, as Ms. Kanguatjivi herself noted in her written submissions on the present Application, these are two factors that are explicitly identified in the manual entitled, *IP 5 Immigrant Applications in Canada made on Humanitarian and Compassionate Grounds*, issued by Citizenship and Immigration Canada.

[22] It was also not unreasonable for the Officer to have noted that "[t]he fact that a person would be leaving behind friends, perhaps family, employment or a residence is not necessarily enough to justify the exercise of discretion." Stated differently, it was reasonably open to the Officer to conclude that "the difficulties the applicant may encounter in leaving Canada and having to apply for permanent resident status abroad arise from the normal and foreseeable working of the law."

[23] There will inevitably be some hardship associated with being required to leave Canada: *Kanthasamy*, above, at para 23. Accordingly, it was incumbent upon Ms. Kanguatjivi to identify and substantiate how her degree of establishment here was such as to warrant favourable consideration in the assessment of whether to grant her the exceptional relief contemplated by s. 25 of the IRPA: *Canada (Minister of Citizenship and Immigration) v Legault*, 2002 FCA 125, at para 15 [***Legault***]; *Kanthasamy FCA*, above, at para 40; *Pervaiz v Canada (Citizenship and Immigration)*, 2014 FC 680, at para 40; see also the corresponding jurisprudence pertaining to paragraph 67(1)(c) of the IRPA: *Chieu v Canada (Minister of Citizenship and Immigration)*,

2002 SCC 3, at para 90; *Khosa*, above, at para 57; *Iamkhong v Canada (Citizenship and Immigration)*, 2011 FC 355, at para 47.

[24] In this regard, Ms. Kanguatjivi was required to demonstrate why her degree of establishment, together with the difficulties that she may encounter having to leave Canada, warranted favourable consideration, relative to others who apply for permanent residence here and may be required to leave if their application is not successful. Stated differently, it was incumbent upon Ms. Kanguatjivi to demonstrate why having to return to her country of origin would have a greater adverse impact on her, because of her particular circumstances, than on other applicants for permanent residence in this country: *Kanthasamy*, above, at para 15.

[25] Given the paucity of evidence that was before the Officer with respect to Ms. Kanguatjivi's establishment in Canada, the Officer's conclusion in this regard was well "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *Dunsmuir*, above, at para 47. In my view, the Officer's decision was appropriately justified, transparent and intelligible.

[26] Ms. Kanguatjivi submits that the Officer had a positive obligation to make further inquiries with respect to the grounds that she advanced in support of her application. I disagree.

[27] In this regard, Ms. Kanguatjivi relies upon *Owusu v Canada (Minister of Citizenship and Immigration)*, 2004 FCA 38 [***Owusu***] and *Griffiths v Canada (Citizenship and Immigration)*,

2011 FC 434. However, the latter of those cases can be distinguished on the basis that it concerned an application for a Pre-Removal Risk Assessment.

[28] *Owusu* is much more on point, and actually supports the Respondent's position. There, the applicant appealed a decision of this Court that upheld an immigration officer's rejection of his H&C application. In the course of dismissing the appeal, the Federal Court of Appeal stated that "since applicants have the onus of establishing the facts on which their claim rests, they omit pertinent information from their written submissions at their peril": *Owusu*, above, at para 8.

[29] In summary, the Officer's assessment of Ms. Kanguatjivi's degree of establishment in Canada was not unreasonable. The Officer did not ignore or minimize the factors that supported her application. In the absence of any material evidence indicating a degree of establishment in Canada that was beyond what would reasonably be expected in the circumstances, it was not unreasonable for the Officer to have more explicitly indicated how the positive and negative factors relating to the degree of her establishment were balanced.

(2) Potential harm from Ms. Kanguatjivi's ex-boyfriend

[30] Ms. Kanguatjivi submits that the Officer erred in failing to consider the fact that her ex-boyfriend, Mr. Hambira, threatened to harm her son when she was pregnant with him. She adds that the Officer also unreasonably assessed the risk that Mr. Hambira poses to her. I disagree.

[31] The son in question is not J, but rather Ms. Kanguatjivi's other son, who has returned to Namibia. There was no evidence before the Officer that Mr. Hambira had ever attempted to harm

or threaten that son, or that he has any interest in Ms. Kanguatjivi's other son J, who currently lives in Canada and has a different father. There was also no evidence that Mr. Hambira continued to be interested in Ms. Kanguatjivi. Indeed, in the submissions that Ms. Kanguatjivi provided in support of her H&C application, she did not even refer to the possibility that Mr. Hambira might harm her or either of her sons.

[32] The evidence before the Officer was that Ms. Kanguatjivi and Mr. Hambira had not had any contact since Ms. Kanguatjivi came to Canada in June 2012. Moreover, the threats and violence that he directed towards Ms. Kanguatjivi in 2012 were for the purpose of intimidating her into aborting the birth of her eldest son. As noted above, there was no evidence that Mr. Hambira might harm Ms. Kanguatjivi or her youngest son (J) if they returned to Namibia, or that he had ever threatened to harm her eldest son, who now lives in Namibia.

[33] In addition, the RPD found that Ms. Kanguatjivi would likely be safe from Mr. Hambira in Walvis Bay. Implicit in this finding is that her son J would also be safe from Mr. Hambira there. Given that this Court denied Ms. Kanguatjivi's Application for Leave and for Judicial Review in respect of the RPD's decision, it is no longer open to her to assert that Mr. Hambira is likely to pursue her or her son in Walvis Bay.

[34] Considering all of the foregoing, it was not unreasonable for the Officer to have concluded that Ms. Kanguatjivi had not provided sufficient evidence to demonstrate that any group or individual is still interested in causing her hardship upon her return to Namibia. It was

also not unreasonable for the Officer to have failed to explicitly address the possibility that Mr. Hambira might harm Ms. Kanguatjivi's son J.

(3) The hardship that Ms. Kanguatjivi may face as a single woman returning to Namibia with a minor child

[35] Ms. Kanguatjivi submits that the Officer failed to assess the risk of harm and persecution that she alleged she would suffer if she were required to return to Namibia. In this regard, she asserts that the Officer failed to reasonably assess the evidence of the risks and hardships that she would face as a single woman with a minor child, including abuse at the hands of men and the police, as well as difficulties associated with obtaining employment, housing and family support services.

[36] In her H&C application, Ms. Kanguatjivi also maintained that if she were required to return to Namibia, she would face serious risks and hardships that include domestic violence, discrimination, detention without charge or trial, torture, rape, cruel and unusual treatment, disappearance and even death. She added that her son J would also face many of those same risks, as well as the possibility of child labour.

[37] In support of the foregoing submissions to the Officer and the Court, Ms. Kanguatjivi referred to various sources that discuss the general conditions in Namibia. Among other things, those sources report on ongoing human rights abuses in that country, the widespread domestic violence that exists there, the inadequate social services provided to victims of such violence, the infrequent level of enforcement of laws against sexual harassment, the prevalence of gender-

based discrimination, including with respect to employment, and the fact that lengthy pre-trial detention remains a significant problem.

[38] In her written submissions in support of her H&C application, Ms. Kanguatjivi stated that she feared the various risks and hardships described above because of her "membership in a particular social group." She also stated there was "no guarantee" that she would not be subjected to those risks and hardships, and that there was no way to reliably monitor Namibia's compliance with its international obligations or with any diplomatic assurances that it might give, for example, with respect to torture. However, Ms. Kanguatjivi did not describe her "particular social group" or explain why she personally would likely be subjected to the risks and hardships that she had identified. She appeared to suggest that she faces those risks and hardships because she is a single woman with a child.

[39] The Officer's assessment of this issue is not a model for others to follow. However, while I am very sympathetic to Ms. Kanguatjivi's circumstances, I am not persuaded that the Officer's assessment was unreasonable.

[40] In brief, over the course of a lengthy review of country conditions in Namibia, the Officer recognized that human rights problems and discrimination continue to exist in Namibia, including in respect of the risks and hardships that Ms. Kanguatjivi identified. However, the Officer then observed that Ms. Kanguatjivi had not explained why she personally would be at risk of any of the types of abuses or hardships that she had identified. As a result, the Officer concluded that there was insufficient evidence that the adverse conditions in question would

have a direct negative impact on her, over and above the hardship that is generally associated with having to leave Canada.

[41] I recognize that there may be "circumstances where the conditions in the country of origin are such that they support a reasoned inference as to the challenges a particular applicant would face on return to" his or her country of origin: *Aboubacar v Canada (Citizenship and Immigration)*, 2014 FC 714, at para 12 [***Aboubacar***]. However, the evidence before the Officer did not reasonably give rise to such an inference, in relation to the various risks that were identified by Ms. Kanguatjivi. In the absence of any significant link between Ms. Kanguatjivi's personal profile and those risks, it was reasonably open to the Officer to find that she had not met her burden of providing sufficient evidence to warrant relief, on H&C grounds, from the normal application of the IRPA: *Dorlean v Canada (Citizenship and Immigration)*, 2013 FC 1024, at paras 35-37; *Piard v Canada (Citizenship and Immigration)*, 2013 FC 170, at paras 18-19.

[42] As noted above, Ms. Kanguatjivi never described the "particular social group" of which she purported to be a member. The Officer was therefore left to implicitly assume that the group in question was the group of single women with a child. However, a fair reading of the country documentation relied upon by Ms. Kanguatjivi does not suggest that persons with that profile face a likelihood or even a significant risk of being subjected to the various harms and abuses that she had identified.

[43] While that documentation reports that detention, torture, cruel and unusual treatment, disappearance and even death continue to occur, no statistics are provided and it is not suggested

that these abuses are widespread, common or frequent. There is also no indication that single women with children face an elevated risk of such abuses, or that this may be true for the children themselves.

[44] Turning to rape and gender-based violence [**GBV**], various figures of reported incidents are provided in the documentation quoted by Ms. Kanguatjivi. The highest of those figures states that there were 1,200 reported rapes for the country as a whole during 2010. However, the sources quoted state that under-reporting is a problem, and suggest that the actual number of rapes and other incidents of GBV is likely much higher.

[45] In the absence of additional information, this evidence does not suggest that the level of these heinous crimes in Namibia is such that Ms. Kanguatjivi would likely face a meaningful risk of personal exposure to them. I note that this Court reached a similar conclusion in *Kambanda v Canada (Citizenship and Immigration*), 2012 FC 1267, at para 52. Stated differently, even if the actual incidence of those crimes is many times the reported level, the risk faced by Ms. Kanguatjivi would remain below 1%, assuming that females account for approximately half of Namibia's population of over 2.5 million people. This contrasts sharply with the 80% of the general population of Niger, who were endangered by the drought that was a focus of the applicant's submissions in *Aboubacar*, above, at para 10.

[46] The documentation relied upon by Ms. Kanguatjivi also notes that there is widespread domestic violence in Namibia. However, no figures are provided and it is not apparent why Ms. Kanguatjivi, who is a single woman, or her son would likely be subjected to such violence.

[47] The documentation in question further reported on 870 cases of child abuse, the fact that NGOs believe such abuse to be under-reported, and the fact that child labour continues to be a problem, particularly in rural areas, where it is estimated to be approximately 3.9% for children aged 10 to 14. However, once again, these figures alone do not suggest that Ms. Kanguatjivi's son J would face a material risk of harm in Namibia.

[48] With respect to employment, Ms. Kanguatjivi referred to documentation that estimated the unemployment level in Namibia to be approximately 51% of the general population. No estimate was provided with respect to people of prime working age, such as Ms. Kanguatjivi, whose H&C application indicates that she is approximately 35 years old and has a business diploma.

[49] The same documentation indicates that work is more readily available, including to single women, in Walvis Bay.

[50] Concerning housing, documentation from 2012 cited by Ms. Kanguatjivi reports that "single women usually end up living in shacks and in informal housing settlements," and that "women looking for housing in Namibian cities experience gender-based and social discrimination from landlords."

[51] In my view, the foregoing information with respect to the challenges that may be faced by Ms. Kanguatjivi in relation to employment and housing in Namibia does not significantly assist her to demonstrate that the Decision was unreasonable. This is because that information

does not suggest that the challenges likely to be faced by Ms. Kanguatjivi in Namibia would be exceptional, even when considered together with the other challenges or hardships that would likely be associated with her having to leave Canada (see paragraphs 23-24 above).

[52] In this context, the relevant comparison is not to Canadian citizens, but to others who apply for permanent residence in this country and may be required to leave if their application is unsuccessful: *Gonzalo v Canada (Citizenship and Immigration)*, 2015 FC 526, at paras 30-31; *Santiago v Canada (Public Safety and Emergency Preparedness)*, 2017 FC 91, at para 27. Put another way, s. 25 contemplates an assessment of whether the challenges that Ms. Kanguatjivi would likely face in having to return to Namibia would "fall with much more force" on her than would likely be the case for the corresponding challenges generally faced by others applying for permanent residence from within this country: *Kanthasamy*, above, at para 15.

[53] With the foregoing in mind, it was reasonably open to the Officer to conclude that the evidence on the record was not sufficient to warrant granting Ms. Kanguatjivi's H&C application for relief. That conclusion had a rational basis and fell "within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law": *Dunsmuir*, above, at para 47; *Halifax (Regional Municipality) v Nova Scotia (Human Rights Commission)*, 2012 SCC 10, at paras 46-47.

(4) The alleged failure to be "alert, alive and sensitive" to the best interests of Ms. Kanguatjivi's child, who has serious medical needs

[54] Ms. Kanguatjivi submits that the Officer was not "alert, alive and sensitive" to the best interest of her son J, and that the Officer failed to identify his best interests. Concerning his medical condition, she asserts that her "evidence and submissions show that she will not be able to pay for the high cost of medical care in Namibia for her son."

[55] I disagree.

[56] In reviewing an H&C application, an immigration officer must be "alert, alive and sensitive" to the interests of any children who may be impacted by the officer's decision: *Baker*, above, at para 75. In this regard, the evidence with respect to the child's interests must be examined with care and attention in light of all the evidence, and in the context of the child's personal circumstances: *Garraway v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 286, at para 33 [***Garraway***]. However, once that has been done, it is up to the officer to determine what weight those interests should be given in the circumstances: *Legault*, above, at para 12. There is no "magic formula to be used by immigration officers in the exercise of their discretion": *Canada (Minister of Citizenship and Immigration) v Hawthorne*, 2002 FCA 475, at para 7 [***Hawthorne***]; see also *Kisana v Canada (Citizenship and Immigration)*, 2009 FCA 189, at para 32 [***Kisana***] and *Garraway*, above, at paras 32-33.

[57] It follows that the best interests of affected children are important, but may not be determinative. Stated differently, "an applicant is not entitled to an affirmative result on an H&C

application simply because the best interests of a child favour that result": *Kisana*, above, at para 24. The best interests of affected children will usually favour that result: *Kisana*, above, at paras 30-31; *Hawthorne*, above, at paras 4-6. It is therefore necessary to assess how those best interests assist the applicant to meet the test for the exceptional relief afforded by s. 25, as set forth above. This assessment "will usually consist in assessing the degree of hardship that is likely to result from the removal of [the child's] parents from Canada and then [balancing] that hardship against other factors that might mitigate their removal": *Kisana*, above, at para 31. Given the exceptional nature of the relief offered by s. 25, it may also be helpful to assess how the best interests of the affected children compare with the best interests of other children who have been assessed in past applications under s. 25.

[58] Unfortunately for Ms. Kanguatjivi, she did not provide any evidence regarding her son's medical needs or the costs that likely would be associated with meeting those needs in Namibia. She simply provided a few documents that were reasonably summarized by the Officer.

[59] The first of those documents was a discharge summary from Regina General Hospital dated August 18, 2014, approximately six weeks after her son J's birth. At that time, he was diagnosed with an enlarged heart (also referred to as biventricular hypertrophy of the heart), and a failure to thrive, due to poor caloric intake. However, an Outpatient Report, dated December 16, 2014, indicated that J was "growing well" and was "a well-looking child exhibiting normal behaviours and activities." Although that report noted that he had been seen the prior week for breathing difficulties, it added that he "was looking well," that his "heart sounds were normal,"

that “no murmur was heard,” and that there “were no concerns.” The report concluded that he was “doing very well.”

[60] Apart from those reports, which were accurately summarized in the Decision, the only other medical documentation in the CTR consisted of two referral forms that mention that Ms. Kanguatjivi had recently moved from Edmonton (to Toronto), and an “Emergency Record” that indicates that J had developed a cough and congestion and had two episodes of something that is difficult to read. Although those forms are not entirely legible, it does not appear from the very sparse information in them that there is anything in them that suggests J currently has exceptional or significant medical needs. In any event, as I have noted, if there was something on those forms that supported Ms. Kanguatjivi’s H&C application, the onus was on her to provide that information in a form that could be more readily understood by the Officer.

[61] Considering the foregoing, it was not unreasonable for the Officer to conclude that there was insufficient objective evidence to indicate that Ms. Kanguatjivi’s son was receiving medical treatment for the medical issues with which he had previously been diagnosed, or otherwise.

[62] In the absence of any evidence regarding the cost or adequacy of medical treatment for any conditions that J might continue to have, it was also not unreasonable for the Officer to conclude that insufficient evidence had been provided in support of that aspect of Ms. Kanguatjivi’s submissions.

[63] After addressing all of the foregoing, the Officer stated that the best interests of Ms. Kanguatjivi's son are best served by remaining with his mother and that his interests would not be compromised if Ms. Kanguatjivi's application were refused. Stated differently, the Officer concluded that a negative decision on that application, while difficult, would not be contrary to J's best interests.

[64] In my view, that conclusion was not unreasonable. In the absence of any significant evidence that J has current medical needs that would be compromised if he were to move with his mother to Namibia, there was nothing particularly exceptional about his interests. Like any other child, he would likely be better off in Canada than in a country that has a lower median standard of living. Without "something more," this obvious fact did not need to be specifically mentioned by the Officer, as it can reasonably be assumed to be true for the vast majority of children whose parents face the prospect of removal to a developing country: *Kasana*, above, at para 30; *Hawthorne*, above, at para 5.

B. *Was the Decision procedurally unfair?*

[65] Ms. Kanguatjivi submits that the Decision was procedurally unfair because the Officer fettered his or her discretion and was predisposed to reject her application without considering its merits.

[66] However, these are bald assertions that have been made without any further elaboration or support whatsoever. From the surrounding text in Ms. Kanguatjivi's written submissions, it appears that she believes that the Decision was unfair because the Officer did not adequately

consider her various submissions. As I have already rejected the specific submissions that Ms. Kanguatjivi has made in this regard, there is no need to further address them here.

V. **Conclusion**

[67] For the reasons that I have given, this Application will be denied. In brief, it was not unreasonable for the Officer to conclude, based on the totality of the evidence provided by Ms. Kanguatjivi, that such evidence was not sufficient to justify granting the exemption that she had requested pursuant to s. 25 of the IRPA. Taken individually and in their entirety, there was nothing exceptional about the risks, hardships and other challenges or potential adverse impacts that Ms. Kanguatjivi and her son realistically might experience if they return to Namibia and apply for permanent residence in the normal manner, i.e., from there. Stated differently, there was nothing in the evidence that indicated the consequences of having to return to her country of origin would "fall with much more force" on her than the corresponding consequences generally faced by other applicants for permanent residence in this country would have on them: *Kanthasamy*, above, at para 15.

[68] The parties at the hearing before me indicated that no serious question of general importance is raised by this Application. I agree. Accordingly, no question will be certified pursuant to paragraph 74(d) of the IRPA.

JUDGMENT IN IMM-2421-17

THIS COURT'S JUDGMENT is as follows:

1. This application is denied.

2. There is no question for certification.

"Paul S. Crampton"
Chief Justice

APPENDIX 1

Humanitarian and compassionate considerations — request of foreign national	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger**
25. (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances 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.	25. (1) Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet 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.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2421-17
STYLE OF CAUSE:	PUUMUE ASTRID KANGUATJIVI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIOI
DATE OF HEARING:	DECEMBER 18, 2017
REASONS FOR JUDGMENT AND JUDGMENT:	CRAMPTON C.J.
DATED:	MARCH 26, 2018

APPEARANCES:

Mr. Solomon Orjiwuru	FOR THE APPLICANT
Ms. Meva Motwani	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Mr. Solomon Orjiwuru Barrister & Solicitor Toronto, Ontario	FOR THE APPLICANT
Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT