

Federal Court



Cour fédérale

**Date: 20180822**

**Docket: IMM-4189-17**

**Citation: 2018 FC 852**

**Ottawa, Ontario, August 22, 2018**

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

**BETWEEN:**

**KAREN ANN MARIE GUTHRIE**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Defendant**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, a 39-year-old citizen of Jamaica, seeks to judicially review a decision of a Pre-Removal Risk Assessment [PRRA] Officer dated August 21, 2017 which rejected her application. For the reasons that follow, the application for judicial review is dismissed.

## II. Background

[2] The Applicant came to Canada in November 2007 on a temporary resident visa. After becoming the subject of a report issued under section 44 of *Immigration and Refugee Protection Act*, SC 2001, c 27, [IRPA], the Applicant claimed refugee status in 2009. Her refugee claim was based on a fear of abuse by her former husband, Leroy Guthrie, who physically abused her on a constant basis during their marriage. She also feared gunmen who had robbed her home in 2004 and 2005. Her refugee claim was refused by the Refugee Protection Division [RPD] on January 18, 2011. Her removal was stayed by an order of this Court.

[3] The Applicant then applied for a PRRA in 2015, which was refused on December 2, 2015. Judicial review of the negative decision was granted on September 27, 2016 and referred back for redetermination by a different officer. The present application for judicial review concerns the second PRRA decision dated August 21, 2017.

[4] In dismissing the Applicant's PRRA application, the Officer reviewed additional evidence raised by the Applicant consisting of a letter from Mr. Thompson, a friend of the Applicant residing in Jamaica, and a letter from the Applicant's current, common-law spouse, Mr. Wilmot. The PRRA Officer gave Mr. Thompson's letter no weight and Mr. Wilmot's letter little weight. The Officer considered additional evidence however the Applicant's submissions focused on the treatment of these two letters.

### III. Standard of Review

[5] The Court notes that neither party made direct submissions on the standard of review to be applied in this case. The jurisprudence provides that the standard of review for the interpretation and assessment of evidence is reasonableness (*Abu Zaid v Canada (Citizenship & Immigration)*, 2017 FC 374). The Court should not intervene so long as the PRRA Officer's conclusion is transparent, justifiable and intelligible and within the range of possible acceptable outcomes based on the law and the facts (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[6] The standard of review for assessing whether an oral hearing should be permitted is based on the correctness standard (*Duroshola v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 518).

### IV. Issues

[7] The issues can be characterized as follows:

1. Was the decision reasonable?
2. Was there a breach of procedural fairness in not holding an oral hearing?

### V. Analysis

#### A. *Was the Decision reasonable?*

[8] The Court notes that neither the RPD nor the PRRA Officer disputed the Applicant's credibility regarding the allegations of abuse by her ex-husband. In other words there was no

direct challenge to the Applicant's credibility. The main issue for consideration before this Court is whether the letters of Mr. Thompson and Mr. Wilmot were properly considered by the PRRA Officer.

[9] It is trite law that RPD members and PRRA officers are not bound to apply the strict rules of evidence (*Mercedes Fajardo (Mercedes Hernades de Fajardo) v The Minister of Employment and Immigration*, [1993] FCJ No 915, 157 NR 392). One of the reasons the PRRA Officer ascribed the weight he did to the letters of Mr. Thompson and Mr. Wilmot was that neither were sworn and that there was no clear way to contact the writers directly (except for Mr. Wilmot). The Court notes that it was not the only reason or even the main reason that little or no weight was given to them.

[10] The Applicant relied on *Paxi v Canada (Minister of Citizenship and Immigration)*, 2016 FC 905 [*Paxi*] in arguing that the Officer erred by discounting the letters of Mr. Thompson and Mr. Wilmot because they were not sworn or accompanied by identification documents of the authors. In *Paxi*, the Immigration and Refugee Board of Canada made some errors in how a letter was identified and characterized, unlike the present case.

[11] This Court is persuaded by the Respondent's argument that based on the record and the reasons of the PRRA Officer, there were other factors that the PRRA Officer considered in giving the letters little or no weight. The Officer found the letters to be lacking in sufficient detail of the events they were referring to, they contained hearsay, and they did not provide new information that was not already known at the time of the RPD hearing.

[12] With respect to the hearsay, the PRRA Officer correctly noted that such evidence can be admissible and that the weight of that evidence is to be determined. This was the proper manner in which the Officer approached the evidence before him.

[13] The Officer noted the lack of corroborative evidence respecting the letters of the Mr. Wilmot. The Officer did not, as the Applicant suggested in written argument, “demand” corroboration. Rather the Officer simply noted the lack of corroborative evidence of what was described in the letter.

[14] The Court is persuaded by the Respondent’s argument that there is a distinction between weight to be attributed to evidence and the admissibility of such evidence. The decision of the PRRA Officer was reasonable in the weight to be ascribed to the letters.

B. *Was there a breach of procedural fairness?*

[15] The Court finds that the Applicant’s procedural rights were not breached.

[16] As stated above, the PRRA Officer noted that there was no corroboration of the letters from Mr. Wilmot. This was not a veiled credibility finding as suggested by the Applicant. Oral hearings are typically required when there is an issue with an applicant’s credibility. The Officer noted in the decision that the Applicant did not provide any personal testimony regarding any developments in her claim for protection, sworn or otherwise, including any matters described by the evidence of others. Third-party credibility matters are not the object of the requirement of an oral hearing. Credibility of the Applicant was not an issue in the present proceeding.

VI. Conclusion

[17] For the reasons above the application for judicial review is dismissed.

[18] Neither party has suggested a question for certification and none arises.

**JUDGMENT in IMM-4189-17**

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

1. The application for judicial review is dismissed.
2. There is no question for certification.

“Paul Favel”

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Judge

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

**DOCKET:** IMM-4189-17

**STYLE OF CAUSE:** KAREN ANN MARIE GUTHRIE v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MAY 29, 2018

**JUDGMENT AND REASONS:** FAVEL J.

**DATED:** AUGUST 22, 2018

**APPEARANCES:**

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