Federal Court  Cour fédérale

Date: 20200124

Docket: IMM-2803-19

Citation: 2020 FC 123

Ottawa, Ontario, January 24, 2020

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

JETRIC CANTALEJO
JOHN CARL CANTALEJO

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Jetric Cantalejo (the "Principal Applicant") and his minor son John Carl Cantalejo (collectively "the Applicants") seek judicial review of the decision of a Visa Officer at the Embassy of Canada in Manila, Philippines (the "Officer"), dismissing their application for permanent residence on humanitarian and compassionate grounds, pursuant to subsection 25 (1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the "Act").

[2] The Applicants seek permanent residence in Canada in order to join family members, that is the mother of the Principal Applicant and two of his siblings. The mother initially came to Canada in 2009, and applied for permanent residency with all of her children. Her application was refused because not all necessary documents in connection were provided. She attained permanent resident status in 2016 and subsequently applied to sponsor her two youngest children.

[3] At that time, the cut-off age for a dependent child was 19 years of age, and the Principal Applicant was 20 years of age. The age for a dependent child was changed in 2017 to the age of 22. Subsequently, the mother applied to sponsor the Principal Applicant and his older brother, Jem Raseck Cantalejo. When the mother applied to sponsor these children, the Principal Applicant was aged 22 years.

[4] The Principal Applicant applied for permanent residence in 2017, as a member of the family class, pursuant to subsection 117(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the "Regulations"). He did not meet the definition of a family class member and sought the exercise of discretion on humanitarian and compassionate grounds as being a *de facto* family member within the scope of Immigration, Refugees and Citizenship Canada's "Program Delivery Instructions, IP5: Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds."

[5] The Officer denied the Applicants' application on the grounds that the Principal Applicant did not meet the definition of a dependent child pursuant to section 2 of the

Regulations, and that there were insufficient humanitarian and compassionate factors to warrant relief under subsection 25(1) of the Act.

[6] The Applicants argue that the decision was unreasonable, because the Officer failed to make a determination regarding *de facto* family status and unreasonably considered the best interests of the child and country condition evidence, that is for the Philippines.

[7] The Minister of Citizenship and Immigration (the "Respondent") submits that the decision meets the relevant standard of review, that is reasonableness, and that there is no basis for judicial intervention.

[8] In *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, the Supreme Court of Canada said that presumptively, the standard of review of administrative decisions is reasonableness, with two exceptions: where legislative intent or the rule of law requires otherwise. Neither exception applies in this case.

[9] The Supreme Court of Canada confirmed the content of the standard of reasonableness, as set out in *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190.

[10] According to the decision in *Dunsmuir*, *supra*, the standard of reasonableness requires that a decision be justifiable, transparent and intelligible, falling within a range of possible, acceptable outcomes that are defensible on the law and the facts.

[11] Upon considering the arguments advanced by the parties, the evidence contained in the Certified Tribunal Record, together with the affidavit filed by the Principal Applicant upon this application for judicial review, I am not satisfied that there is any basis for judicial intervention.

[12] The decision meets the applicable standard of review; it is "justifiable, transparent and intelligible."

[13] In the result, the application for judicial review is dismissed.

[14] There is no question for certification arising.

JUDGMENT in IMM-2803-19

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification arising.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2803-19
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