Federal Court  Cour fédérale

Date: 20201120

Docket: IMM-2826-19
IMM-3806-19

Citation: 2020 FC 1076

[ENGLISH TRANSLATION]

Ottawa, Ontario, November 20, 2020

PRESENT: The Honourable Mr. Justice McHaffie

Docket: IMM-2826-19

BETWEEN:

JOHN HENRY SANABRIA
FRANCY KATHERINE SIERRA LADINO
KEVIN SANTIAGO SANABRIA SIERRA

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Docket: IMM-3806-19

AND BETWEEN:

JOHN HENRY SANABRIA
FRANCY KATHERINE SIERRA LADINO
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JUDGMENT AND REASONS

I. Overview

[1] When a child's mental health is at stake in an application based on humanitarian and compassionate (H&C) considerations, it is essential that the assessment of the application take into account, in an understanding and sensitive manner, the potential consequences that the removal would have on his or her mental health. In the current case, the senior immigration officer (H&C Officer) focused his analysis on the sources of the child's issues, Kevin Santiago Sanabria Sierra, instead of on the effects of those issues; on the fact that Kevin himself sought psychological support without explaining the relevance of that fact; and on access to mental health care in Colombia in the event of a removal. I conclude that this analysis does not demonstrate the necessary attention and sensitivity to the best interests of the child, and does not demonstrate an internally coherent and rational analysis of the evidence presented on the issue of Kevin's mental health.

[2] I therefore find the H&C Officer's refusal of the H&C application filed by Ms. Francy Katherine Sierra Ladino, Mr. John Henry Sanabria and their son Kevin (the Sanabrias) to be unreasonable. These errors were not corrected in a subsequent decision by the H&C Officer, which dealt only with new evidence related to Ms. Sierra's mental health.

[3] For these reasons, and even though I do not accept the Sanabrias' other arguments based on procedural fairness, both applications for judicial review are allowed, and the application for permanent residence based on humanitarian and compassionate considerations is referred for redetermination by a different officer.

II. Issues and standard of review

[4] Following the rejection of their refugee protection claim, the Sanabrias filed an application for permanent residence based on humanitarian and compassionate considerations, pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, LC 2001, c 27 [IRPA]. This application was refused in two related decisions made by the same H&C Officer: a first decision on the application, dated March 11, 2019 (docket: IMM-2826-19), and a second, supplementary decision dated May 23, 2019, which dealt with evidence submitted by the Sanabrias after the date of the first decision (docket: IMM-3806-19).

[5] The Sanabrias argue that the dismissal of their application was unfair and unreasonable. The Sanabrias' submissions raise the two following questions:

A. Was there a breach of procedural fairness because the H&C Officer did not hold a hearing or interview prior to making a finding on credibility and/or did not consider the additional evidence submitted after his decisions?

B. Did the H&C Office err in his treatment of the evidence relating to the mental health of Kevin and/or Ms. Sierra?

[6] The first question, that of procedural fairness, must be considered according to a standard of "fairness" similar to that of the correctness standard of review, where the Court decides whether the procedure was fair in all circumstances: *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paragraph 43; *Canadian Pacific Railway Limited v Canada (Attorney General)*, 2018 FCA 69 at paragraph 54. The Court must determine whether the applicants "had a meaningful opportunity to present their case fully and fairly": *Kisana v Canada (Citizenship and Immigration)*, 2009 FCA 189 at paragraph 45; *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraph 30.

[7] The second question must be reviewed according to the standard of reasonableness: *Kisana* at paragraph 18; *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paragraph 44; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paragraphs 16, 23 to 25. A reasonable decision is one that is justified, transparent, and intelligible from the point of view of the individuals to whom the decision applies, "based on an internally coherent and rational chain of analysis" read as a whole and having regard to the administrative context, the file before the decision maker and the submissions of the parties: *Vavilov* at paragraphs 81, 85, 91, 94 to 96, 99, 127 to 128. The Court should not engage in a "line-by-line treasure hunt for error": *Vavilov* at paragraph 102. It is also not the role of the Court to "substitute its own justification for the outcome" when the reasons provided are insufficient or the decision maker's analysis is flawed: *Vavilov* at paragraph 96.

[8] The analysis of the rationale for the decision is intimately linked to the evidence on record before the decision maker: *Vavilov* at paragraphs 125 to 126. A review court hearing an

application for judicial review must refrain from "reweighing and reassessing the evidence considered by the decision maker" because of the distinct roles that this Court and administrative decision makers play, respectively: *Vavilov* at paragraph 125; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paragraphs 19 to 20.

III. Analysis

A. *No breach of procedural fairness*

[9] The Sanabrias allege that there was a breach of the principle of procedural fairness because the H&C Officer (1) made an adverse credibility finding with respect to the post-traumatic symptoms suffered by Kevin without calling a hearing or interview; and (2) ignored the additional evidence submitted by the Sanabrias. For the reasons that follow, I do not accept either argument.

(1) Hearing not required

[10] The Sanabrias' H&C application followed the rejection of their refugee protection claim filed in 2016. The refugee protection claim was based on allegations that they had been subjected to extortion, threats, an attack and an attempted kidnapping at the hands of a gang that controlled the area where their pharmacy was located in Bogota, Colombia. This refugee protection claim was rejected by the Refugee Protection Division (RPD) because it found the applicants not to be credible, not believing that Kevin was the subject of an attempted kidnapping, and not believing the reasons for the delay in claiming refugee protection. The Sanabrias' appeal to the Refugee

Appeal Division (RAD) was denied in September 2017. An application for judicial review of that decision was dismissed by Justice Annis on May 23, 2018 (IMM-4529-17).

[11] In their H&C application, filed on February 28, 2018, the Sanabrias submitted evidence concerning the mental health of Kevin, who was 16 years old at the time. In particular, the Sanabrias filed a [TRANSLATION] "progress report" from a psychologist dated January 19, 2017, and a rather brief letter from a psychotherapist social worker and a psychologist dated January 23, 2017. As originally formulated, the H&C application was based on the best interests of the child (BIOC), Kevin, the integration and establishment of the Sanabrias in Canada, the difficulties experienced and the adverse conditions in Colombia.

[12] The psychologist's report of January 19, 2017, stated that it was based on eight meetings with Kevin over seven months between June 2016 and January 2017. The report stated, among other things, that Kevin [TRANSLATION] "has been experiencing significant stress symptoms since the events that occurred in his country. . . . The symptoms were exacerbated when his father left the country, leaving him and his mother alone in Colombia". The report also noted that a thorough psychological assessment had not been conducted, but that [TRANSLATION] "several symptoms were consistent with a profile of post-traumatic stress disorder".

[13] In his analysis of this report, the H&C Officer indicated, among other things, the following: [TRANSLATION] "The report does not mention what events Kevin reported to the psychologist. I would like to remind you that the story of the kidnapping was not considered credible at two levels (RPD and RAD)".

[14] The Sanabrias allege that the H&C Officer had made an adverse credibility finding and that failure to call an interview before drawing such a conclusion constitutes a breach of procedural fairness, citing *Jang v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 996 at paragraph 21. I cannot accept this argument. Even if we accept that the H&C Officer's note comes to an adverse conclusion on credibility, which is not clear, the case law reflects the principle that, when weighing the evidence before them, H&C officers may take into account adverse credibility findings made by the RPD and the RAD regarding fear of removal to the country of origin: *Nkitabungi* v *Canada (Citizenship and Immigration)*, 2007 FC 331 at paragraph 8; *Kouka v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1236 at paragraph 27. An immigration officer who processes an H&C application "does not sit in appeal or review" of the RPD: *Nkitabungi* at paragraph 8.

[15] The Sanabrias did not submit additional evidence regarding the alleged attempted kidnapping, which could have required a new determination of credibility: *Magonza v Canada (Citizenship and Immigration)*, 2019 FC 14 at paragraphs 66 to 67. In addition, the H&C Officer's analysis focused on Kevin's mental health status, not on the evidence on which the refugee protection claim was based. Although the H&C Officer noted that the report did not characterize Kevin's symptoms as a final diagnosis of post-traumatic stress disorder, nowhere had the H&C Officer stated that he found it not credible that Kevin was experiencing symptoms of stress, and his reasons show that he did not doubt that Kevin was experiencing stress. In these circumstances, I conclude that procedural fairness does not require a new hearing before referring to the adverse credibility findings by the RPD and the RAD.

(2) H&C Officer not obliged to consider evidence submitted too late

[16] The H&C application by the Sanabrias was filed in February 2018. The H&C Officer reviewed this application and refused it on March 11, 2019. On March 20, 2019, Immigration, Refugees and Citizenship Canada (IRCC) sent the Sanabrias a notice to appear for an interview, advising them that decisions had been rendered on their H&C application and on their Pre-Removal Risk Assessment (PRRA), , and that they had to report to the IRCC office on April 17, 2019, to receive information on those decisions.

[17] Further to this notice but before the date of their interview, on April 3 and 8, 2019, the Sanabrias sent new documents as evidence relating to their H&C application. These documents focused on Ms. Sierra's psychological distress due to the separation and divorce of Ms. Sierra and Mr. Sanabria in 2017–2018, and the subsequent suicide of her new spouse. The Sanabrias, who are still joint applicants despite their divorce, have also filed updates on their establishment and integration into Canadian society.

[18] On April 17, 2019, the H&C Officer's negative decision of March 11, 2019, was given to the Sanabrias. That decision did not take into account the updates of April 3 and 8, 2019.

[19] The Sanabrias filed an application for leave and for judicial review of that decision, bearing docket number IMM-2826-19. The Sanabrias argued in that application that because the H&C Officer did not take into account the two submissions of April 3 and 8, 2019, this constituted a breach of procedural fairness.

[20] In the meantime, on May 23, 2019, the H&C Officer learned of the updates of April 3 and 8, 2019. The H&C Officer made a supplementary decision that same day, on May 23, in the form of an addendum, affirming his previous decision refusing the H&C application. A letter notifying the Sanabrias of that decision was dated May 28, 2019. The Sanabrias acknowledge that although a breach of procedural fairness occurred as a result of the failure by the H&C Officer to consider the evidence and submissions of April 3 and 8, 2019, in his first decision, such a breach had been resolved since the H&C Officer considered these new documents in his second decision of May 23, 2019. Therefore, I cannot pursue this argument.

[21] On the other hand, the Sanabrias submitted a third update on May 27, 2019, a few days after the date of the second decision, and the day before it was sent. Unaware of the second decision, the Sanabrias requested a review of the first decision (that of March 11, 2019) in light of the three updates (April 3, 8 and May 27). In their second application for judicial review, in docket IMM-3806-19, which deals with the second decision, dated May 23, 2019, the Sanabrias alleged that there was a breach of procedural fairness as the H&C Officer did not consider the additional evidence submitted on May 27, 2019.

[22] Despite the fact that the third update was filed the day before the second decision was issued, I find that there was no breach of procedural fairness in these circumstances for the following reasons.

[23] Generally, applicants must “put their best foot forward” in their applications, and they omit pertinent information from their applications at their peril: *Kisana* at paragraph 45;

Kurukkal v Canada (Citizenship and Immigration), 2009 FC 695 at paragraph 70, aff'd 2010 FCA 230. However, an officer has "an obligation to receive all evidence which may affect the decision until the time that such decision is made": *Chudal v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1073 at para 19.

[24] In *Chudal*, Justice Hughes found, in the context of a PRRA application, that a decision is "made" when it is written and signed and notice of the decision, even if not its contents, has been delivered to the applicant: *Chudal* at paragraph 19. This Court applied the same principles in the context of a "danger opinion" rendered by a Minister's delegate, and in the interpretation of subsection 183(5) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227: *Balazuntharam v Canada (Citizenship and Immigration)*, 2015 FC 607 at paragraphs 15 to 16; *Shekhtman v Canada (Citizenship and Immigration)*, 2018 FC 964 at paragraph 26. In my opinion, the same principle should apply to H&C decisions. I note that Justice Ahmed recently reached the same conclusion in *Kim v Canada (Citizenship and Immigration)*, 2020 FC 581 at paragraphs 39 to 40, 85, a decision issued after the hearing, but which does not affect the outcome of this case.

[25] The third update by the Sanabrias was filed the day before the second supplementary decision was issued. According to a strict reading of the *Chudal* principle, the second decision was therefore not "made" and the H&C Officer should have considered the additional evidence and submissions. Nevertheless, in the present circumstances, I cannot conclude that there was a breach of procedural fairness. First, the Sanabrias received the notice that a decision on their H&C application had been made in March 2019. According to *Chudal*, the H&C decision was

"made" on that date, and there was no obligation to consider the evidence subsequently received. The fact that the H&C Officer had exercised his discretion to reopen the decision and read the two April updates cannot create a new requirement to reopen it if another update is filed after the second decision has been made and on the eve of its issuance.

[26] There is nothing in the Court's record to indicate that the H&C Officer was aware of the May 27, 2019, update before he issued the decision letter on May 28, 2019. The Sanabrias noted that the second decision was titled [TRANSLATION] "ADDENDUM: REQUEST FOR REOPENING H&C application received on **28/02/2018**". They argued that this title indicated that the H&C Officer had received the May 27 submissions because it was only the May 27, 2019, submission that constituted an "application to reopen" and that the date indicated, February 28, 2018, is an erroneous reference to May 27, 2019. I do not agree. The H&C Officer reasonably treated the communications of April 3 and 8, 2019, as applications to reopen since he had already made his decision on March 11, 2019, and the Sanabrias were notified accordingly. In addition, the date indicated, February 28, 2018, is not an error, but the original date of receipt of the application for permanent residence on H&C grounds.

[27] It is also important to note that the time between the second decision and the notice was only five days. It is not a question here of a three-week delay, as in *Chudal* and *Balazuntharam*, much less several months, as in *Shekhtman*. We cannot keep reopening and redetermining a case because multiple updates are being filed within the brief administrative window between when a decision is made and when it is sent to an applicant.

[28] The Sanabrias also complained that they never received a response to their May 27, 2019, application to reopen. In my opinion, the lack of a decision or response to the application to reopen received after the second decision was not before the Court in either of the two cases, which dealt only with the decisions dated March 11 and May 23, 2019.

B. *H&C Officer did not reasonably analyze best interests of child*

[29] The Sanabrias argued that the H&C Officer did not reasonably consider the BIOC factor because his analysis of the evidence on Kevin's mental health was unreasonable. For the reasons that follow, I accept this argument. I find that the H&C Officer's decision did not demonstrate "an internally coherent and rational chain of analysis" as documentary evidence on Kevin's mental health. Therefore, I do not have to dispose of the Sanabrias' arguments concerning the H&C Officer's analysis in his supplementary decision on Ms. Sierra's mental health. This second decision did not address or resolve the deficiencies in the BIOC analysis of the first decision, so it could not be reasonable.

[30] Immigration officers are obliged to take into account the best interests of the child directly affected as an essential element of an H&C analysis: IRPA, subsection 25(1); *Kanthasamy* at paragraph 10; *Baker* at paragraph 74. The BIOC principle is highly contextual, and the precise application of the principle must be responsive to the child or children in question and their particular context: *Kanthasamy* at paragraph 35.

[31] In *Kanthasamy*, the Supreme Court confirmed that the BIOC must be a "singularly significant focus and perspective" and that the decision maker must be "alert, alive and sensitive to them": *Kanthasamy* at paragraphs 40 to 41; *Baker* at paragraph 75. At the same time, "[t]hat is

not to say that children's best interests must always outweigh other considerations": *Baker* at paragraph 75. Justice Abella clarified that the notion of "unusual and undeserved hardship" should not generally apply to children, since "[c]hildren will rarely, if ever, be deserving of any hardship": *Kanthasamy* at paragraph 41; *Hawthorne v Canada (Minister of Citizenship and Immigration*, 2002 FCA 475 at paragraph 9. As the Court of Appeal explained in *Hawthorne*:

> [4] The "best interests of the child" are determined by considering the benefit to the child of the parent's non-removal from Canada as well as the hardship the child would suffer from either her parent's removal from Canada or her own voluntary departure should she wish to accompany her parent abroad. Such benefits and hardship are two sides of the same coin, the coin being the best interests of the child.
>
> [5] The officer does not assess the best interests of the child in a vacuum. The officer may be presumed to know that living in Canada can offer a child many opportunities and that, as a general rule, a child living in Canada with her parent is better off than a child living in Canada without her parent. The inquiry of the officer, it seems to me, is predicated on the premise, which need not be stated in the reasons, that the officer will end up finding, absent exceptional circumstances, that the "child's best interests" factor will play in favour of the non-removal of the parent. In addition to what I would describe as this implicit premise, the officer has before her a file wherein specific reasons are alleged by a parent, by a child or, as in this case, by both, as to why non-removal of the parent is in the best interests of the child. These specific reasons must, of course, be carefully examined by the officer.
>
> [Emphasis added.]

[32] The Sanabrias submitted that Kevin's best interests weigh in favour of a humanitarian and compassionate dispensation. The H&C Officer addressed this question in his first decision, dated March 11, 2019. I note that the evidence submitted on April 3 and 8, 2019, was not before the H&C Officer at the time of his review on March 11, 2019, and that these submissions did not, in any event, address Kevin's mental health. I would not treat the record as including these

documents in my analysis of the reasonableness of the first decision in respect of the BIOC issue: *Access Copyright* at paragraphs 19 to 20; *Vavilov* at paragraphs 91 to 94.

[33] As the Minister pointed out, the H&C Officer clearly considered the BIOC as a factor in his decision. In almost four pages of reasons, the H&C Officer referred to evidence describing Kevin's school life and mental health. In this analysis, there are entirely reasonable considerations and grounds that are not disputed by the Sanabrias.

[34] Nevertheless, I agree that there are unreasonable aspects of the BIOC analysis that are crucial enough to make the analysis as a whole unreasonable, being aware of the singular importance that must be attached to the BIOC factor. In particular, I find that the BIOC analysis was unreasonable because of (i) the emphasis the H&C Officer placed on the fact that it was Kevin who sought psychological help; (ii) the H&C Officer's excessive concern about the sources of his mental health difficulties; (iii) the H&C Officer's determination that Kevin's stress derived primarily from a source not mentioned in the reports; and (iv) the minimization of Kevin's mental health issues because of the availability of health services in Colombia.

[35] First, I find it unreasonable that the H&C Officer gave implicitly negative weight to the psychological report because the request for an evaluation was initiated by Kevin. The H&C Officer noted:

> [TRANSLATION]
>
> I also note that the request for an evaluation was initiated by Kevin himself and that this request was made after the family's refugee protection claim was rejected in June 2016.
>
> There is no evidence that this request was initiated by teachers or a social worker of his who identified in him a significant need. This is a detail that deserves to be emphasized and to which I give weight, since it seems that it is the immigration situation in Canada

> that is causing stress in Kevin rather than the situation in his own country.
>
> [Emphasis added.]

[36] In my view, it is not reasonable to give negative weight to the fact that Kevin himself sought help by seeking psychological counselling. Whether it was Kevin, his parents, or his teachers who motivated the consultation does not affect the question at hand: what is in the best interests of the child given his current circumstances?

[37] I also note that holding against an applicant the fact that he sought psychological assistance may be inconsistent with the rule that applicants must establish with credible evidence that their circumstances warrant an exemption from the general rules of the IRPA: *Kisana* at paragraph 45; *Kurukkal* at paragraph 70.

[38] Moreover, the H&C Officer does not explain why he found that Kevin's proactive behaviour in trying to improve his mental health deserved a negative comment, apart from his indication that it [TRANSLATION] "seems that it is the immigration situation in Canada that is causing stress". I see neither the connection between the cause of stress and the fact that Kevin sought help, nor the significance of the fact that it was his immigration situation that contributed to his stress.

[39] This last point leads to the second problem with the H&C Officer's analysis. The H&C Officer put an unreasonable emphasis on the *causes* of Kevin's stress instead of considering their *effects* and, above all, Kevin's best interest. In addition to the passage reproduced above, the H&C Officer concluded that [TRANSLATION] "it is reasonable to think that Kevin was affected by his parents' choice" (referring to the move from Colombia and their separation) and that he

"is concerned about his immigration status and the separation of his parents". Having recognized Kevin's mental health issues, the H&C Officer did not indicate why this analysis of the sources of the problems was an important factor for him. In any case, whether a child is suffering from mental health difficulties because of decisions made by his or her parents or from a source external to the family is not a reason to ignore them or treat them as less important with regard to the BIOC.

[40] The source of an applicant's mental health difficulties may be relevant when an officer analyzes the impact the removal would have on the applicant's symptoms. Nevertheless, the officer should not ask himself or herself whether the source of the mental health issues was in itself sufficiently [TRANSLATION] "favourable" from an H&C perspective.

[41] The H&C Officer noted that the psychological report indicated that when Kevin [TRANSLATION] "puts his energy on activities over which he has control . . . he feels better". Even though he noted this, the H&C Officer did not state how Kevin would be impacted by an event beyond his control, such as his return to Colombia, other than to mention that he [TRANSLATION] "could face some difficulties". Case law has determined that a decision would be unreasonable if an officer did not analyze the effect of the removal from Canada on the child's mental health when it is a relevant aspect of the H&C application: *Esahak-Shammas v Canada (Citizenship and Immigration)*, 2018 FC 461 at paragraph 26, citing *Kanthasamy* at paragraphs 47 to 48.

[42] Third, the H&C Officer's conclusion that Kevin's troubles arise from the separation of his parents is not based on the evidence. The H&C Officer admitted that this information did not appear in the psychologist's report. Nor did it appear in Kevin's own evidence, or in his parents'

evidence. However, the H&C Officer concluded that it was the separation of his parents that led to the stress, as well as his immigration status, based solely on the fact that Kevin was under stress in Colombia when his father left for Canada before him and his mother. In the absence of evidence in this regard, I conclude that it is not reasonable to contradict the psychological report by substituting his own conclusions about the sources of Kevin's issues.

[43] Finally, I find that the H&C Officer discounted too much the potential impacts of a return to Colombia because of the availability of health services in that country. As I noted earlier, an assessment of the evidence about a child's mental health in a BIOC analysis must take into account the impacts of a return to the country of origin: *Esahak-Shammas* at paragraph 26, citing *Kanthasamy* at paragraphs 47 to 48. It is not a mistake to consider, in this context, the availability of health services in the event of a removal, but the analysis cannot be limited to this question: *Esahak-Shammas* at paragraph 26. Having made reference to Kevin's mental health and to the evidence about the health system in Colombia, the H&C Officer concluded as follows: [TRANSLATION] "Therefore, little weight is given to this factor, since the applicants could have access to medical treatment and medication" [emphasis added]. I find that this analysis is similar to the one rejected by the Supreme Court at paragraphs 46 to 48 of *Kanthasamy*.

[44] Although the H&C Officer recognized that Kevin may encounter [TRANSLATION] "some difficulties" upon his return, I do not find that the H&C Officer was sensitive to the fact that, owing to his mental health, he would have more difficulties should he return than a child without traumatic symptoms.

[45] I am very aware of the Minister's submissions that a judicial review of the standard of reasonableness is not a quest for perfection: *Vavilov* at paragraph 91. Put in another way, an

administrative decision should be set aside only when "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency": *Vavilov* at paragraph 100. In my view, the errors in the BIOC analysis, especially when considered cumulatively, are of this nature. I find that these errors make the decision of the H&C Officer of March 11, 2019, unreasonable.

[46] I also note that the H&C Officer concluded his analysis on the BIOC by stating:

> [TRANSLATION]
>
> The applicants are not relieved of their burden of demonstrating that there were special circumstances for their child that justified granting an exemption.

[47] In my view, this passage does not properly express the required analysis. There is no separate burden of demonstrating that there are special circumstances for a child to justify an exemption. There is a burden on an applicant to demonstrate that all circumstances, including the BIOC, warrant an exemption: IRPA, section 25(1); *Kanthasamy* at paragraphs 13 to 15, 21, 25, 38, 60. Having said that, I would not state that this inaccuracy would in and of itself make the decision unreasonable. The H&C Officer had expressed the analytical framework in a more comprehensive manner elsewhere, and his conclusion shows that he had considered all relevant factors in his final determination.

[48] Reopening the application in the second decision of May 23, 2019, did not correct the errors of the H&C Officer in the first decision, because he did not address Kevin's mental health. The refusal of the Sanabrias' H&C application is therefore set aside, and both applications for judicial review are allowed. In view of my findings on these issues, I need not rule on the other

arguments made by the Sanabrias, particularly that the analysis of the evidence on Ms. Sierra's mental health in the H&C Officer's supplementary decision was also unreasonable.

IV. Conclusion

[49] Both applications for judicial review are therefore allowed, and the application for permanent residence on humanitarian and compassionate considerations is referred back to a different officer for redetermination.

[50] I note that there are errors in the style of cause in both files. In order to avoid confusion, I will order that the style of cause be corrected in both files to reflect the names of the applicants as they appear in their passports, namely "John Henry Sanabria", "Francy Katherine Sierra Ladino", and "Kevin Santiago Sanabria Sierra."

[51] Finally, for consistency and in accordance with subsection 4(1) of the IRPA and rule 5(2) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, the style of cause is amended in both cases to name the Minister of Citizenship and Immigration as the respondent.

[52] Neither party has proposed a question for certification. I agree that none arises in this case.

JUDGMENT in IMM- 3806-19 and IMM-2826-19

THIS COURT'S JUDGMENT is as follows:

1. Both applications for judicial review are allowed, and the application for permanent residence on humanitarian and compassionate considerations is referred back to a different officer for redetermination.
2. The style of cause in docket IMM-2826-19 is corrected to reflect the proper designation of applicants John Henry Sanabria, Francy Katherine Sierra Ladino and Kevin Santiago Sanabria Sierra and the proper designation of the respondent, the Minister of Citizenship and Immigration.
3. The style of cause in docket IMM-3806-19 is corrected to reflect the proper designation of applicants John Henry Sanabria, Francy Katherine Sierra Ladino and Kevin Santiago Sanabria Sierra and the proper designation of the respondent, the Minister of Citizenship and Immigration.

"Nicholas McHaffie"
Judge

Certified true translation
Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3806-19
STYLE OF CAUSE:	JOHN HENRY SANABRIA ET AL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
DOCKET:	IMM-2826-19
STYLE OF CAUSE:	JOHN HENRY SANABRIA ET AL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	JANUARY 29, 2020
JUDGMENT AND REASONS:	MCHAFFIE J.
DATED:	NOVEMBER 20, 2020

APPEARANCES:

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Jocelyne Murphy	FOR THE RESPONDENT

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Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT