Federal Court  Cour fédérale

Date: 20230713

Docket: IMM-9318-22

Citation: 2023 FC 948

Ottawa, Ontario, July 13, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

IBRAHIM JALLOH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS AND JUDGMENT

[1] Mr. Ibrahim Jalloh (the "Applicant") seeks judicial review of the decision of an Officer, dismissing his Pre-Removal Risk Assessment ("PRRA") application. The Applicant now argues that the decision is unreasonable since the Officer failed to consider the existence of "compelling reasons", pursuant to subsection 108(4) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the "Act"), in deciding his PRRA application.

[2] The Applicant is a citizen of Sierra Leone where he had been a child soldier. He entered Canada in March 2007, as a member of the family class, with permanent residence status. He lost that status in July 2012, as the result of a criminal conviction.

[3] The Officer accepted the facts about the Applicant's past in Sierra Leone, but did not consider the exception set out in subsection 108(4) of the Act in assessing the PRRA application.

[4] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the Officer's decision is reviewable on the standard of reasonableness.

[5] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see *Vavilov*, *supra* at paragraph 99.

[6] The Minister of Citizenship and Immigration (the "Respondent") submits that the Officer was not obliged to consider the existence of compelling reasons because the Applicant never received Convention refugee status and the decision is reasonable.

[7] I disagree.

[8] I refer to the decision of the Federal Court of Appeal in *Yamba v. Canada (Minister of Citizenship and Immigration)* (2000), 254 N.R. 388, where that Court said the following at paragraph 6:

> [6] In summary, in every case in which the Refugee Division concludes that a claimant has suffered past persecution, but this [*sic*] has been a change of country conditions under paragraph 2(2)(e), the Refugee Division is obligated under subsection 2(3) to consider whether the evidence presented establishes that there are "compelling reasons" as contemplated by that subsection. This obligation arises whether or not the claimant expressly invokes subsection 2(3). That being said the evidentiary burden remains on the claimant to adduce the evidence necessary to establish that he or she is entitled to the benefit of that subsection.

[9] It follows that the decision fails to meet the applicable standard of review and will be set aside. The matter will be referred to a different officer for redetermination. There is no question for certification.

JUDGMENT in IMM-9318-22

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter remitted to a different officer for redetermination. There is no question for certification.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-9318-22
STYLE OF CAUSE:	IBRAHIM JALLOH v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
DATE OF HEARING:	JULY 11, 2023
REASONS AND JUDGMENT:	HENEGHAN J.
DATED:	JULY 13, 2023

APPEARANCES:

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