

**Date: 20080114**

**Docket: IMM-2217-07**

**Citation: 2008 FC 23**

**BETWEEN:**

**IDRISSA LENE**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT**

**Pinard J.**

[1] This is an application for judicial review of the decision of immigration officer J. Gullickson (hereinafter the officer), refusing the applicant's permanent residence application based on humanitarian and compassionate considerations (the HC application).

\* \* \* \* \*

[2] The applicant is a citizen of Burkina Faso. He arrived in Canada on March 28, 2003, and applied for refugee status in 2003. His claim was based on alleged reprisals and threats that he

received from some of his family members following a dispute regarding family land. This application was refused on December 23, 2003, by the Refugee Protection Division (hereinafter the RPD), which determined that the applicant lacked credibility based on many omissions, inconsistencies and implausibilities in his story. The applicant filed an application for leave to apply for judicial review, but abandoned this application on February 12, 2004.

[3] On May 25, 2004, the applicant filed an HC application based on the same facts as those alleged in his refugee claim. Further, he alleged that his integration in Canada, the financial support that he provided for his family in Burkina Faso, including his four children, as well as the impossibility of finding work in Burkina Faso, supported a decision in his favour.

[4] On May 10, 2007, the officer decided that the applicant had not established that the requirement that he obtain his permanent residence visa from outside Canada would cause him or any other person undue or excessive hardship. This decision was communicated to the applicant in a letter dated May 14, 2007.

\* \* \* \* \*

[5] The applicant is basically challenging the officer's assessment of the facts. It is well established that officers who make decisions on HC applications are normally given broad discretion. It falls on the applicant to establish that his particular situation is worthy of favourable consideration. In an application for judicial review of an HC decision, the appropriate standard of

review is that of reasonableness. In *Davoudifar v. Minister of Citizenship and Immigration*, 2006 FC 316, [2006] F.C.J. No. 431 (F.C.T.D.) (QL), this Court stated as follows:

[44] The Decision made by the Officer is highly fact-based, and as the Officer is in a better position than this Court to assess the facts before her, the exercise of a discretion in assessing the Applicant's case is subject to a high level of deference from this Court. In this case, although the Applicant's situation attracts compassion, the Officer was not unreasonable in making her Decision and, as such, I must decline to intervene.

(See also *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *Agot v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 436, [2003] F.C.J. No. 607 (F.C.T.D.) (QL); *Serda v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 356, [2006] F.C.J. No. 425 (F.C.T.D.) (QL) and *Lim v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 956, [2002] F.C.J. No. 1250 (F.C.T.D.) (QL)).

[6] Further, even if the officer has erred, the Court must not intervene if this error is not determinative (*Owusu v. Canada (Minister of Citizenship and Immigration)*, [2003] 3 F.C. 172 (F.C.T.D.); *Kaybaki v. Canada (Solicitor General)*, 2004 FC 32, [2004] F.C.J. No. 27 (F.C.T.D.) (QL)).

[7] In this case, despite the assiduous presentation made by Mr. Nguyen for the applicant, I have not been persuaded that the officer's assessment of the facts, even if partly improper in regard to the probative value of the letters of the applicant's spouse regarding the injury to her arm, is, on the whole, unreasonable. It appears *inter alia* that the officer considered the RPD's findings in light of

the new evidence submitted by the applicant and that his analysis of this evidence led him to determine that they were not sufficient to rehabilitate his credibility.

[8] My review of the evidence leads me to find that, generally speaking, the detailed analysis performed by the officer, who was not necessarily bound to refer to all of the evidence, is serious and coherent. In this context, this Court ought not to substitute its own assessment of the facts for the officer's assessment.

[9] Indeed, as there was no error established justifying the intervention of the Court, the application for judicial review is dismissed.

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“Yvon Pinard”  
Judge

Ottawa, Ontario  
January 14, 2008

Certified true translation

Kelley A. Harvey, BCL, LLB

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-2217-07

**STYLE OF CAUSE:** IDRISSA LENE v. MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** December 5, 2007

**REASONS FOR JUDGMENT:** Pinard J.

**DATE OF REASONS:** January 14, 2008

**APPEARANCES:**

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