

Date: 20080207

Docket: IMM-1476-07

Citation: 2008 FC 159

Toronto, Ontario, February 7, 2008

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

CHARLES ADEGBOYEGA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Application challenges a Visa Officer's decision which rejects the Applicant's request to be landed as a skilled worker. During the course of a personal interview, the Visa Officer expressed concern about whether the Applicant was in possession of adequate settlement funds. Indeed, it is apparent from the CAIPS notes that the Visa Officer held a suspicion about the Applicant's credibility with respect to his statements about the existence of such funds and their origin. In order to give the Applicant an opportunity to meet this suspicion, the Visa Officer fairly granted a thirty day period for the Applicant to file supplementary material.

[2] Midway through the thirty day period the Applicant filed a bundle of material. This material was considered by the Visa Officer and, as a result, the Visa Officer rejected the Applicant's Application for landing on a statement that:

The Applicant has failed to provide evidence of his source of funds. I do not find the Applicant credible regarding his source of funds based on the info on file and info obtained from the Applicant after interview.

(Tribunal Record, p. 25-26)

[3] On the very day that the rejection decision was rendered, a second bundle of documents from the Applicant was received by the Visa Officer. The second bundle contains apparently cogent evidence about the existence of settlement funds and their origin. The only evidence which exists about the consideration given by the Visa Officer to this group of documents is contained in the Visa Officer's affidavit filed in the present Application as follows:

A refusal letter had been prepared and mailed out, the morning of February 16, 2007. Additional documents submitted by the applicant and received by this office on February 16, 2007, were reviewed the afternoon of February 16, 2007. The documents reviewed the afternoon of February 16, 2007, did not alter my final decision.

(Affidavit filed July 10, 2007, para.19)

[4] In my opinion, having challenged the Applicant's credibility during the interview, I find that fairness required the Visa Officer to critically analyse the evidence submitted by the Applicant in the second bundle and to give some reasons as to why those documents did not allay her concerns. I find that the Visa Officer's failure to do so constitutes a reviewable error.

ORDER

Accordingly, I set the visa officer's decision aside and refer the matter to another visa officer for reconsideration.

"Douglas R. Campbell"

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-1476-07

STYLE OF CAUSE: CHARLES ADEGBOYEGA v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 6, 2008

**REASONS FOR ORDER
AND ORDER BY:** CAMPBELL J.

DATED: FEBRUARY 7, 2008

APPEARANCES:

M. MAX CHAUDHARY FOR THE APPLICANT

KAREENA R. WILDING FOR THE RESPONDENT

SOLICITORS OF RECORD:

CHAUDHARY LAW OFFICE
Barristers and Solicitors
Toronto, Ontario FOR THE APPLICANT

John H. Sims, Q.C.
Deputy Attorney General of Canada
Toronto, Ontario FOR THE RESPONDENT