Federal Court  Cour fédérale

Date: 20110707

Docket: IMM-3770-10

Citation: 2011 FC 834

Ottawa, Ontario, July 7, 2011

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

QUINCY JAZZY JACKSON

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. BACKGROUND

[1] This judicial review concerns an Immigration Officer's (Officer) refusal of a request to process the Applicant's permanent residence application within Canada on H&C grounds.

[2] The Applicant, a citizen of St. Vincent, entered Canada at the age of 11.

[3] He was deported in April 1997; he had been found inadmissible to Canada and an exclusion order had been issued.

[4] On November 5, 1997, the Applicant legally changed his name to that of Quincy Jazzy Jackson and re-entered Canada in December 1999 under that name.

[5] After his spousal class permanent residence application was refused because of lack of cohabitation, the Applicant filed for H&C consideration.

II. ANALYSIS

[6] The Applicant raised two issues:

1. denial of procedural fairness in not providing an oral hearing and bias; and
2. unreasonable finding in respect of best interests of the child.

[7] It is well established that the correctness standard of review applies to the first issue and the reasonableness standard applies to the second issue.

A. *Natural Justice*

[8] Contrary to the Applicant's submissions, the Officer was not required to provide an oral hearing to elicit further information. The onus of proof rested with the Applicant. The decision turned largely on sufficiency of evidence. This was not a situation where it was unreasonable for the Officer to decide the matter on the basis of the sufficiency of the evidence presented.

[9] The allegation of bias (or reasonable apprehension thereof) was based on the allegation that the Officer put undue weight on the fact that the Applicant had changed his name.

[10] The Officer's speculation as to what might have happened if the Applicant had tried to enter Canada under his former name, the one under which deportation had been effected, was irrelevant. While not a helpful comment, there is no evidence that the Officer gave the notion any degree of importance. Read as a whole, the reasons show a balanced approach wherein the Officer addressed all the relevant factors.

B. *Reasonableness of Decision*

[11] The Officer's reasons show that she was "alert, alive and sensitive" to the children's best interests. The Applicant's problem was that there was no corroborative evidence of his submissions.

[12] This H&C application failed on the basis of insufficiency of evidence. On this point the Applicant does not challenge the decision.

[13] The Officer accepted corroborative evidence in the Applicant's favour but on other matters provided the Officer with nothing on which to ground a positive decision. Therefore, it cannot be said that this decision is unreasonable.

III. CONCLUSION

[14] This application for judicial review will be dismissed. No question will be certified.

JUDGMENT

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

"Michael L. Phelan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3770-10
STYLE OF CAUSE:	QUINCY JAZZY JACKSON and THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	April 7, 2011
REASONS FOR JUDGMENT AND JUDGMENT:	Phelan J.
DATED:	July 7, 2011

APPEARANCES:

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