

Federal Court



Cour fédérale

Date: 20120713

Docket: IMM-8560-11

Citation: 2012 FC 882

Ottawa, Ontario, July 13, 2012

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

PAMELA OSORIO

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Ms Pamela Sheila Osorio, a citizen of the Philippines, applied for permanent residence in Canada after receiving a job offer as an office administrator from Christopher's Fine Drycleaning in Okotoks, Alberta. However, an immigration officer in Manila concluded that the offer was not genuine and denied Ms Osorio's application.

[2] Ms Osorio contends that the officer's decision was unreasonable because it did not disclose why the officer doubted the genuineness of the employer's offer. She asks me to quash the officer's decision and order another officer to reconsider it.

[3] I agree that the officer's decision was unreasonable because it did not adequately explain why the officer concluded that the offer was not genuine. I must, therefore, grant this application for judicial review.

[4] The sole issue is whether the officer's decision was unreasonable.

II. The Officer's Decision

[5] The officer's principal concerns about Ms Osorio's offer of employment were:

- it would not make sense for Ms Osorio to leave the Philippines, where she runs a number of family businesses, to take a lower paying job in Canada;
- Ms Osorio had limited knowledge of the job she would be performing in Canada or her destination; and
- Ms Osorio had not spoken to her prospective employer for ten months.

[6] The officer expressed her concerns to Ms Osorio, but felt that Ms Osorio had failed to respond to them satisfactorily. She believed Ms Osorio had obtained the job offer in order to gain access to Canada for some reason other than employment. She doubted Ms Osorio would actually take up the position offered to her.

III. Was the Officer's Decision Unreasonable?

[7] In my view, the officer did not adequately consider the evidence before her that supported the genuineness of Ms Osorio's intentions. This included:

- Ms Osorio stated that she wanted to start over in Canada, have a more balanced life, raise her children in a small community, have more time for her family, and have less stress. She was looking for a 9-to-5 job, with weekends free. At the moment, she works 24/7.
- She was encouraged to seek employment in Canada because her Philippino friends in Vancouver had achieved the balance she was seeking. She had also researched employment in the United States and Australia, but she regarded those countries as less appealing than Canada.
- She was aware that the dry-cleaning business had two branches, one in Calgary and one in Okotoks. The Okotoks branch had five or six employees, and the Calgary site had nine or ten. She found about five or six other competing drycleaners in the

Okotoks area. At present, the owner acted as office administrator, but she needed help, especially since she was expecting a child. As administrator, Ms Osorio would operate and organize the office and help out on the retail side when needed. While she has no direct experience in drycleaning, her administrative duties would be similar to the responsibilities she currently shoulders in the Philippines.

- Ms Osorio had researched Okotoks on the Internet. It is about 18 kilometres from Calgary, a 45-minute drive. While she had not yet visited Okotoks, based on her research, it seemed to be good place to raise a family.
- Just a few days before Ms Osorio's interview with the officer, the employer supplied a second letter confirming the job offer to Ms Osorio.

[8] In the face of this evidence, it is difficult to understand why the officer harboured ongoing concerns about Ms Osorio's reasons for being interested in the job, her knowledge of the business, her familiarity with her intended destination, and the lack of recent contact with the employer. Clearly, the officer thought Ms Osorio had reasons other than those she expressed for seeking a job that was beneath her qualifications and current salary. But her decision does not disclose what those might be. Nor did the officer explain why the evidence before her was insufficient to allay her concerns. Accordingly, I find that the officer's decision was unreasonable because it was not justified, intelligible, or transparent.

IV. Conclusion and Disposition

[9] Based on the evidence before her, the officer's decision did not fall within the range of defensible outcomes. Therefore, it was unreasonable. I must, therefore, allow this application for judicial review and order another officer to reconsider Ms Osorio's application. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is allowed and the matter is referred back to another officer for reconsideration.
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8560-11

STYLE OF CAUSE: PAMELA OSORIO
v
MCI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: July 4, 2012

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: July 13, 2012

APPEARANCES:

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