Federal Court  Cour fédérale

Date: 20141217

Docket: IMM-1417-14

Citation: 2014 FC 1227

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, December 17, 2014

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

PATRICIA NOGBOUT
KONAN WILFRIED CAMILLE GNANDRI
KOUAKOU AFFOUE SANDRINE AURORE
GNANDRI KOUAKOU DEKAWILI MARIE
KEHILA PRUNELLE

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] One of the objectives of the *Immigration and Refugee Protection Act* is "to see that families are reunited in Canada" (paragraph 3(1)(*d*)). In 2004, when Ms. Nogbout came to Canada, she left two of her five children in Côte d'Ivoire. She did not even declare them to the

Canadian authorities. She now wishes to be reunited in Canada with her daughter Sandrine and her son Wilfried, whom she has not seen since 2001, and with Dekawili Marie, Sandrine's daughter. Her children are still in Côte d'Ivoire and have never been to Canada.

[2] Ms. Nogbout cannot sponsor them as members of the family class because she did not declare them as non-accompanying family members in her application for permanent residence; thus, they could not be examined (*Immigration and Refugee Protection Regulations*, subsection 117(9)).

[3] Nevertheless, the Minister may, on humanitarian and compassionate grounds, grant Ms. Nogbout's two children and her granddaughter permanent resident status (IRPA, section 25.1). However, the officer who reviewed the file denied the application. This is the judicial review of that decision.

[4] In 2010, as she did when she came to Canada in 2004, Ms. Nogbout did not declare her son and daughter when she obtained permanent resident status. She justified that omission on the grounds that she and her common-law spouse separated. The children stayed with the former spouse, who did not allow her any contact with them until 2010. Since then, she has contributed financially to their well-being but, apparently, could not afford to visit them.

[5] The officer assessed Ms. Nogbout's situation, her reasons for not declaring the children in the beginning (in 2004) or later (in 2010), and her limited financial means.

[6] He also considered the fact that Ms. Nogbout's former spouse had remarried and that there seemed to be animosity between the new spouse and the children.

[7] He also determined that there was nothing to suggest that the father of Ms. Nogbout's granddaughter was unable to contribute to her well-being. He thus concluded the following:

> [TRANSLATION]
>
> I am not convinced that the applicant has met the onus of demonstrating that the best interests of the children would be to be with their mother in Canada rather than with their father, who has looked after them for years.

[8] Recently, as noted by the Federal Court of Appeal in *Seshaw v Canada (Minister of Citizenship and Immigration)*, 2014 FCA 181 at paragraph 23, in assessing humanitarian and compassionate grounds, the focus shifts from the sponsor to the sponsored.

[9] The decision was not unreasonable. The wicked stepmother is a universal theme. Charles Perrault wrote *Cinderella* in 1697; in turn, he could have drawn his inspiration from a Greek legend. Sandrine explains her dislike for her stepmother as follows: [TRANSLATION] "a woman who cannot have children of her own" and who has a grudge against Sandrine, who gave birth to a child; moreover, she stated the following: [TRANSLATION] "She is the one who makes the rules. We eat when she wants us to eat. . . . She often insults us and treats us like failures. . . . She is ruining our lives."

[10] Wilfried also deplores his stepmother: [TRANSLATION] "She does not love us and tells us that sometimes. If she had a child we would be her child's employees. I prefer to stay outside

with my friends rather than being inside that house. I do not want to be insulted for no reason anymore; I want to be happy like my other friends."

[11] On its own, the children's dissatisfaction with their family or household circumstances is not a humanitarian and compassionate ground giving entitlement to permanent resident status.

[12] Furthermore, the children seem to believe that Canadian streets are paved with gold. Sandrine stated the following: [TRANSLATION] "Our country is in economic and social trouble. There is war and life here is not stable."

[13] The decision absolutely complies with the reasonableness standard as described in *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at paragraph 47.

[14] The application for judicial review will be dismissed. There is no serious question of general importance to be certified.

JUDGMENT

FOR THESE REASONS;

THE COURT ORDERS AND ADJUDGES that

1. The application for judicial review is dismissed.

2. There is no serious question of general importance to be certified.

"Sean Harrington"
Judge

Certified true translation
Janine Anderson, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1417-14
STYLE OF CAUSE:	PATRICIA NOGBOUT *ET AL* v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUEBEC
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