

Federal Court



Cour fédérale

**Date: 20150525**

**Docket: IMM-4723-14**

**Citation: 2015 FC 675**

**Ottawa, Ontario, May 25, 2015**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**ERICK JADE AZARCON**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The applicant asks the court to set aside a decision of a visa officer denying him a temporary resident visa to visit his mother in Canada. He submits that he was denied procedural fairness because the decision's reasons are inadequate and the decision is unreasonable because the officer misconstrued or ignored evidence. For the reasons that follow, the court must dismiss this application.

[2] The applicant is a citizen of the Philippines. He sought a six month temporary resident visa in order to come to Canada to support and care for his mother, Juliet Azarcon, who lives in Canada. Ms. Azarcon is a caregiver and is in the processes of obtaining permanent residence. She was in a car accident and suffers from various injuries.

[3] The visa officer rejected the application as he or she was not satisfied that the applicant would leave Canada after his stay as a temporary resident. This decision was stated to have been based on the applicant's travel history, family ties in Canada and country of residence, limited employment prospects in country of residence, current employment situation, personal assets and financial status.

[4] The Visa Officer's notes, which constitute the reasons for the decision, state:

NO FOSS RECORD. 28 Y/O MALE. VISTING MOTHER FOR SIX MONTHS. MOTHER FIGURED IN A CAR ACCIDENT IN NOV 2013. MED CERT SEEN. MOTHER SUFFERS FROM DEPRESSION AND PTSD. SUSTAINED SOME INJURIES AND UNDERGOING PHYSICAL THERAPY. SHE HAS SOME PHYSICAL LIMITATIONS BUT IS ABLE TO PERFORM BASIC SELF-CARE FUNCTIONS LIKE DRESSING UP, EATING, GOING TO THE BATHROOM. MOTHER ON A WP AS LCP. HAS NO FAMILY IN CDA. CURRENTLY RECEIVING DISABILITY BENEFITS. SUBJ HAS NO PREV OVERSEAS TRAVEL. RUNS A SMALL INTERNET SHOP. NO PROOF OF BUSINESS INCOME. MODEST FUNDS WITH NO DEPOSIT HISTORY. UNMARRIED, NO DECLARED DEPS. HAS A NURSING DEGREE. I HAVE CAREFULLY CONSIDERED ALL INFO ON FILE, PARTICULARLY THE SITUATION OF SUBJ'S MOTHER IN CDA. HOWEVER, SUBJ PRESENTS VERY WEAK TIES IN THE PHILS (NO TRAVEL, LOW FUNDS, SOURCE OF INCOME). ALSO HAS STRONG ECONOMIC INCENTIVES TO REMAIN IN CDA. ON BALANCE, I AM NOT SATISFIED THAT SUBJ WILL LEAVE CDA BY THE END OF AUTHORIZED STAY.

[5] I am unable to agree with the applicant that these reasons are not sufficiently intelligible or transparent for him and the court to be able to determine whether the decision is or is not reasonable. The ultimate question the officer had to address was whether the applicant would return to the Philippines after visiting Canada to care for his mother.

[6] The duty on a visa officer to provide reasons is at the low end of the scale. The question the court must ask is whether the reasons are such that the applicant knows why his application was rejected. In my view, they meet that standard. The officer noted that the applicant has weak ties to the Philippines. The information summarized by the officer concerning the applicant's personal ties to the Philippines is accurate. The officer does not mention that the applicant has a sibling and a father in the Philippines; however, it is not incumbent on an officer to recite every fact in the application, especially when, as here, there is no evidence that these relationships would be a strong draw to return to the Philippines and leave a mother in Canada who may still require his care. The applicant knows from the reasons given that the officer concluded that he had weak ties to the Philippines.

[7] The applicant also knows that the officer knew and understood his reason for wishing to visit his mother in Canada – namely, to care for her. He submits that the officer ignored or misconstrued evidence as to the mother's condition and her need for his care.

[8] In my assessment, the officer's summary of the mother's condition is a fair and reasonable summary of the medical evidence tendered by the applicant. In particular, the observation that "she has some physical limitations but is able to perform basic self-care

functions” is a fair and reasonable characterization of that evidence. The attendant care evaluation in the record shows that very little time is required for level 3 care – “complex health/care hygiene functions.” Most of the care required is in supervising or the patient or in providing “routine personal care.” The officer’s summary is thus reasonable.

[9] The applicant also objects to the officer's statement that he "has strong economic incentives" to remain in Canada. He submits that it is impossible to know what incentives the officer was referring to in the notes. In my view, the officer's observation is not without some merit. Ms. Azarcon is in receipt of disability income and there is a medical report in the record that states that she should be in receipt of attendant care benefit, which the applicant could presumably provide given his nursing background, of \$7,840.11 per month. The conclusion that he would have a financial incentive to overstay his visa is reasonable.

[10] In summary, although the ultimate decision may have been otherwise based on the record, the court cannot find that the result reached by this officer was unreasonable. Nor can the court find that the officer's reasons were lacking in detail such that they were unintelligible or lacking in transparency.

[11] Neither party proposed a question for certification; nor is there one.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application is dismissed and no question is certified.

"Russel W. Zinn"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-4723-14

**STYLE OF CAUSE:** ERICK JADE AZARCON v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MAY 21, 2015

**JUDGMENT AND REASONS:** ZINN J.

**DATED:** MAY 25, 2015

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