

Federal Court



Cour fédérale

Date: 20160621

Docket: IMM-4601-15

Citation: 2016 FC 697

Ottawa, Ontario, June 21, 2016

PRESENT: The Honourable Madam Justice McDonald

BETWEEN:

GERALD DESMOND WELLS

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision of an immigration officer (the Officer) of Citizenship and Immigration Canada, dated August 21, 2015, refusing the Applicant's pre-removal risk assessment (PRRA).

I. The PRRA decision

[2] The PRRA Officer (the Officer) reviewed the two risks which the Applicant raised in his PRRA submissions: (1) a risk of harm from the Applicant's half-sister; and (2) a risk of harm arising from the lack of adequate care and support for the Applicant's mental health issues.

[3] The Applicant submitted that his half-sister threatened to kill him if he returned to Trinidad and Tobago, because his half-sister does not want the Applicant to make a claim with respect to his father's estate. The Officer noted that no documentary evidence was submitted to corroborate this claim, such as copies of the threatening text messages that the Applicant received from his half-sister, or correspondence from the Applicant's family members, friends, or acquaintances.

[4] Despite the lack of corroborating evidence, the Officer went on to consider whether the Applicant would be able to obtain assistance from the authorities in Trinidad and Tobago assuming that his half-sister did in fact wish to harm him. The Officer reviewed the country condition evidence and found that state protection was available.

[5] Accordingly, the Officer rejected this ground.

[6] The Applicant also submitted that he would be at risk of harm if returned to Trinidad and Tobago because he would be unable to obtain adequate care and support for his mental health issues. The Officer reviewed the medical documentation, which indicated the Applicant suffers from a major depressive disorder, post-traumatic stress disorder, a non-specified anxiety disorder, and social anxiety disorder. The Officer acknowledged that the Applicant has generally

responded well to medication for these mental health issues, and he has accessed medical assistance, counselling, and outpatient group therapy on a regular basis in Canada.

[7] The Applicant claimed that he has no support network in Trinidad and Tobago and would be homeless and subjected to violence and humiliation by the local Trinidad community. The Officer considered the Applicant's written submissions, medical documentation, and a letter of support from his common-law spouse. The Officer found there was little objective documentary evidence to indicate the Applicant would be unable to obtain adequate care in Trinidad and Tobago.

[8] The Officer reviewed two publically available documents concerning mental health care in the country. Based on this evidence, the Officer found there is an established system of mental health care in Trinidad and Tobago, offering a range of primary and secondary care, including medication, psychotherapy, and rehabilitation programs. The Officer found that treatment is accessible at a variety of medical facilities, including mental health outpatient and day treatment facilities, hospitals, and residential facilities.

[9] Based on this evidence, the Officer concluded that the Applicant would be able to access adequate treatment for his mental health issues in Trinidad and Tobago, and there was therefore no risk of harm on this basis if he were to return.

II. Issues and standard of review

[10] The parties agree that the reasonableness standard applies. The Court will only intervene if the decision of the Officer falls outside the range of possible, acceptable outcomes that are defensible in respect of the facts and law: *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47.

[11] The sole issue in this case is whether the decision of the Officer was reasonable.

[12] As a preliminary issue, the Applicant sought to introduce a number of newspaper articles attached to the affidavit of May Grace Espiritu (sworn December 3, 2015). While these articles may be publically available, they were not before the Officer and do not form part of the record. The Respondent objects to the consideration of the information, as it was not before the Officer. I agree and the exhibits were not considered for the purpose of this judicial review.

III. Analysis

[13] The Applicant relies on two cases concerning mental-health related risks: *Richmond v Canada (Minister of Citizenship and Immigration)*, 2013 FC 228 and *Level v Canada (Minister of Citizenship and Immigration)*, 2010 FC 251. However, both cases are distinguishable from the facts here.

[14] *Richmond* concerned a PRRA application based on the unavailability of treatment for mental health issues in Guyana. The Federal Court set aside the negative PRRA decision because the officer referred only to evidence showing that Guyana is improving in its efforts to address mental illness. The officer failed to specify treatment that the applicant could undergo or a particular facility that could be accessed.

[15] Here however, the Officer noted that the documentary evidence showed a number of medical facilities that are available to the Applicant in Trinidad and Tobago, offering medication, psychotherapy, and rehabilitation. More significantly, the Court in *Richmond* noted that there was objective documentary evidence suggesting stigmatization of the mentally ill in Guyana, which the officer had failed to consider. No such evidence was before the Officer here.

[16] In *Level*, the negative PRRA decision was set aside because the officer ignored evidence of abuse of the mentally ill. The officer also ignored evidence concerning the lack of state protection for the mentally ill.

[17] Again, in this case, no such contradictory evidence was before the Officer. Rather, the Applicant's PRRA application was rejected for want of evidence. The Applicant adduced evidence of his mental health issues, but he did not establish that the situation in Trinidad and Tobago was such that his mental health issues necessitated protection under sections 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27. Nor did this evidence establish that the Applicant would be unable to obtain adequate care in Trinidad and Tobago.

[18] As such, in the circumstances, the Officer's rejection of the PRRA application was reasonable.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed; and
2. No serious question of general importance is certified.

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4601-15

STYLE OF CAUSE: GERALD DESMOND WELLS v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

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JUDGMENT AND REASONS: MCDONALD J.

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