

Federal Court



Cour fédérale

**Date: 20161104**

**Docket: IMM-1289-16**

**Citation: 2016 FC 1234**

**Toronto, Ontario, November 4, 2016**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**OMOWUNMI RISIKAT ADEKOYA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant has applied for judicial review of a decision dated February 29, 2016 [the Decision] made by an immigration officer [the Officer] in which her application to extend her study permit was denied. This application was made pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27 [the IRPA].

[2] The Applicant is a thirty one year old Nigerian citizen and the single mother of a six year old Canadian-born daughter.

[3] The Applicant came to Canada in January 2008 to begin a Bachelor of Arts program at the University of Manitoba. She gave birth to her daughter in April of 2010.

[4] The Applicant's initial study permit was renewed in 2011 and in late 2015 she applied for a further renewal [the Renewal Application]. It was denied in the Decision which is the subject of this application.

#### I. THE APPLICANT'S FINANCES

[5] As part of the Renewal Application the Applicant provided documentation from an ATM machine which showed that she had \$5,010.00 in her bank account. On the Renewal Application she said that she had funds on hand of \$5,000.00 and that her parents would pay her expenses. However, there was no documentation showing her parents' willingness and ability to provide her with financial support.

#### II. THE DECISION

[6] The Officer refused to renew the Applicant's study permit because she did not provide evidence of sufficient funds. She had only \$5,000.00. This would not have paid her tuition even for one term and it would not have covered her room and board or her childcare expenses. The

Officer also concluded that the Applicant had not actively pursued her studies because in eight years she had earned only half the credits needed for a four year degree and she had failed or abandoned a number of courses. For this reason the Officer was concerned that the Applicant was not a *bona fide* visitor and that she would not leave at the end of her authorized stay. It is noteworthy that in her Renewal Application the Applicant did not explain whether she had access to additional funds.

### III. THE ISSUES

1. Did the Officer have a duty to ask the Applicant to explain her lack of funds?
2. Was the Decision reasonable?

### IV. DISCUSSION AND CONCLUSIONS

[7] An officer who considers an application to extend a study permit has no obligation to make his or her concerns known or to hold an interview, unless he has relied on extrinsic evidence or has credibility concerns. Neither of these situations arises in this case.

[8] However, the Applicant says that because the Renewal Application said that her parents would provide support, the Officer had a duty to ask her what they would contribute. In my view there is no such duty, particularly when the sufficiency of funds is dealt with in the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [the Regulations]. The onus was on the Applicant to bring forward information about her parents' plans and resources.

[9] Section 220 of the Regulations states that an officer “shall not” issue a study permit unless, without working, students have sufficient funds to pay their tuition, maintain themselves and family members, and transport themselves and family members home from Canada. Since she had insufficient funds, the Officer had no discretion and was required to deny the Renewal Application. The Decision was therefore reasonable.

[10] Given this conclusion it is not necessary to consider the other reasons given for the Decision.

V. CERTIFICATION

[11] No question was posed for certification for appeal.

**JUDGMENT**

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

“Sandra J. Simpson”

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Judge

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

**DOCKET:** IMM-1289-16

**STYLE OF CAUSE:** OMOWUNMI RISIKAT ADEKOYA v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 3, 2016

**JUDGMENT AND REASONS:** SIMPSON J.

**DATED:** NOVEMBER 4, 2016

**APPEARANCES:**

Ayodele Akenroye

FOR THE APPLICANT

Stephen Jarvis

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Ayodele Akenroye Law  
Professional Corporation  
Barrister and Solicitor  
Mississauga, Ontario

FOR THE APPLICANT

William F. Pentney  
Deputy Attorney General of  
Canada

FOR THE RESPONDENT