



# Cour fédérale

Date: 20170209

**Docket: IMM-3388-16** 

**Citation: 2017 FC 160** 

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Montréal, Quebec, February 9, 2017

PRESENT: The Honourable Mr. Justice Locke

**BETWEEN:** 

### KHALED EL-KHATIB ALINA FLORENTINA EL-KHATIB

**Applicants** 

and

# THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

# JUDGMENT AND REASONS

[1] Upon the applicants' application for judicial review of an immigration officer's refusal of their application for permanent residence on humanitarian and compassionate grounds (H&C application);

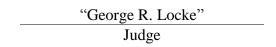
- [2] Upon reviewing the parties' records and considering counsel's written and oral submissions;
- [3] Whereas the parties agree, and the Court concurs, that the standard of review that applies to an immigration officer's decision regarding an H&C application is that of reasonableness for questions of fact and questions of mixed fact and law (*Kisana v. Canada (Citizenship and Immigration*), 2009 FCA 189 at paragraph 18; *Caesar v. Canada (Citizenship and Immigration*), 2010 FC 215 at paragraph 11);
- [4] Whereas (i) decisions on H&C applications are discretionary, (ii) the onus is on the applicants to provide the administrative decision-maker with sufficient evidence to show that exceptional relief is warranted, and (iii) it is not for the Court to re-weigh the relevant factors in reviewing the exercise of ministerial discretion: *Abdirisaq v. Canada (Citizenship and Immigration)*, 2009 FC 300 at paragraph 3, citing *Suresh v. Canada (Citizenship and Immigration)*, 2002 SCC 1; *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12 at paragraphs 4, 46;
- [5] Whereas, with respect to the applicants' establishment in Canada, the Court notes that they did not submit in their factum, nor, in any event, is the Court satisfied, that the officer's analysis was unreasonable;

- [6] Whereas, with respect to the best interests of the children, although the applicants would have preferred a different outcome, the Court finds that the officer's analysis was not unreasonable because:
  - the evidence submitted to the officer was limited;
  - the officer considered all of the children involved;
  - the officer's finding that his decision would not have any negative and significant effect on the well-being of the applicants' children was based on reasonable grounds;
  - the Court is not satisfied that the officer's decision was influenced by irrelevant factors,
    nor that the officer failed to consider relevant factors;
- [7] Whereas the applicants do not object to the respondent's request for the style of cause to be amended to indicate the "Minister of Citizenship and Immigration" as the respondent;

# **JUDGMENT**

# THIS COURT'S JUDGMENT is that:

- 1. This application is dismissed.
- 2. No serious question of general importance is certified.
- The style of cause is amended to indicate the "Minister of Citizenship and Immigration" as the respondent.



Certified true translation This 31st day of July 2019

Lionbridge

#### **FEDERAL COURT**

### **SOLICITORS OF RECORD**

**DOCKET:** IMM-3388-16

STYLE OF CAUSE: KHALED EL-KHATIB, ALINA FLORENTINA

EL-KHATIB v THE MINISTER OF CITIZENSHIP

AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

**DATE OF HEARING:** FEBRUARY 2, 2017

**JUDGMENT AND REASONS:** LOCKE J.

**DATED:** FEBRUARY 9, 2017

**APPEARANCES**:

Anthony Karkar FOR THE APPLICANTS

Charles Junior Jean FOR THE RESPONDENT

**SOLICITORS OF RECORD:** 

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