

Federal Court



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: *Abdirisq 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.
3. The style of cause is amended to indicate the "Minister of Citizenship and Immigration" as the respondent.

"George R. Locke"

Judge

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:

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Charles Junior Jean FOR THE RESPONDENT

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