Federal Court Cour fédérale

Date: 20230810

Docket: IMM-6690-21

Citation: 2023 FC 1094

Ottawa, Ontario, August 10, 2023

PRESENT: The Honourable Madam Justice Tsimberis

BETWEEN:

OLAJUWON FATIMOT BELLO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of the decision made by a representative of the Minister of Immigration, Refugees and Citizenship Canada ("IRCC" or "Officer") dated September 29, 2021 refusing her application for permanent residence made from within Canada under the temporary public policy for refugee claimants working in Canada's health-care sector during the COVID-19 pandemic (the "Public Policy" or "Pathway Program"). The Applicant is

challenging the decision of the Officer who determined that the Applicant did not meet the eligibility requirements of the Public Policy.

[2] The application is dismissed because the Officer reasonably denied the application as the Applicant did not meet the eligibility requirements. The Applicant submitted an application under the Pathway Program despite being ineligible. As explained in greater detail below, the express terms of the Pathway Program make persons ineligible when they, like the Applicant, are inadmissible for reasons other than those indicated in the public policy, and more particularly, because of serious criminality under s. 36(1)(b) of the *Immigration and Refugee Protection Act* ("*IRPA*"). Before the Officer, the Applicant did not contest her criminal inadmissibility. Rather, the Applicant asked for an exemption from s. 36(1)(b) of the *IRPA*, and quoted the Inland Processing Manual IP 5 in respect of humanitarian and compassionate applications ("H&C").

[3] Before this Court, the Applicant claims that she was eligible for deemed rehabilitation, but this submission was not before the Officer. In any event, this Court agrees with the Respondent that the Applicant was not eligible for deemed rehabilitation pursuant to s. 18(2)(a)(i) of the *Immigration and Refugee Protection Regulations* ("*IRPR*").

[4] With respect to the Applicant's H&C arguments, she conflates the Pathway Program created under s. 25.2 of the *IRPA* with H&C relief under s. 25(1) of the *IRPA*. As the Officer reasonably noted, the Applicant is presently ineligible for H&C consideration under s. 25(1) of the *IRPA*.

II. **Background**

A. *Facts*

[5] The Applicant Ms. Olajuwon Fatimot Bello is a Nigerian citizen born in Lagos, Nigeria.

[6] In May 2005, the Applicant went to England with her then husband. To get into the country, the Applicant used a falsified passport, with a different name and date of birth. The name in the passport included the real name of the Applicant (Olajuwon Fatimot Bello) and the ex-husband's last name (Oluwole).

[7] In February 2010, the Applicant was arrested, charged and convicted in the United Kingdom for use of forged documents. The Applicant pleaded guilty, and the Court suspended the passing of sentence with the Applicant having to complete 80 hours of community services, which she completed.

[8] In November 2017, the Applicant claimed refugee protection in Canada, accompanied by her two minor children.

[9] In 2019, a s. 44(1) report was written setting out the Applicant's inadmissibility for serious criminality pursuant to s. 36(1)(b) of the *IRPA*.

[10] In August 2021, while her refugee claim was pending, the Applicant submitted an application for permanent residence under the Pathway Program. In her application for

permanent residence under the Pathway Program, she acknowledged that she is inadmissible pursuant to s. 36(1)(b) of the *IRPA.* However, she stated that she is "seeking an exemption" from her inadmissibility, she noted that s. 25.2 "provides guidance of [the Pathway Program]", and then she cited legal principles and guidance from the IRCC Inland Processing Manual IP 5 – *Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds.* After setting out a list of factors and considerations designed to assist officers assessing H&C applications under s. 25(1) as set out in IP 5, the Application stated that family-related interests are important when "dealing with an A25 application." She noted her close bond with her children, and that removal from Canada would result in undeserved hardship to her and her children.

B. *Decision under Review*

[11] In a letter dated September 29, 2021, the Officer refused the Applicant's application for permanent residence under the Pathway Program. The letter stated that the Applicant was not eligible under the new Public Policy, because:

> *You are inadmissible for reasons other than those indicated in one of the public policies:*
>
> ***36 (1)** A permanent resident or a foreign national is inadmissible on grounds of serious criminality for*
>
> ***(b)** having been convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years; or*

[12] The attached Reasons for Decision included the following as the rationale / justification:

> *The principal applicant (PA) was convicted on 22/04/2010 in the United Kingdom of an offence that, if committed in Canada, would equate to use, trafficking, or possession of forged document as per section 368(1) of the Criminal Code of Canada. This is an indicatable (sic) offence liable to a term of imprisonment of not more than 10 years. The PA is therefore inadmissible pursuant to section 36(1)(b) of the Immigration and Refugee Protection Act (IRPA). An A44 report was issued on 12/03/2019.*
>
> *The PA requested exemption for their inadmissibility pursuant to section 36(1)(b) and refers to IP5. However, this is an application under the temporary public policy for certain refugee claimants working in the health care sector and not a humanitarian and compassionate (H&C) application. I note that the PA is not eligible for to submit an application for humanitarian and compassionate consideration pursuant to section 25(1) of IRPA as they have made a claim for refugee protection that is pending before the Refugee Protection Division and therefore fall under section 25(1.2)(b) of IRPA.*
>
> *The applicant is inadmissible for reasons other than those indicated in the public policy.*
>
> *HCW Eligibility Criteria – Not Met*
>
> *This application is refused.*

[13] The Officer denied the Applicant's requested exemption for her s. 36(1)(b) inadmissibility because it was an application under the public policy Pathway Program and not an H&C application.

[14] Finally, the Officer noted that the Applicant could not submit an H&C application pursuant to s. 25(1) of the *IRPA*, because the Applicant made a claim for refugee protection that was pending before the Refugee Protection Division and therefore falls under s. 25(1.2)(b) of the *IRPA*.

C. *Relevant provisions*

[15] In this matter, the relevant provisions are ss. 25(1), 25(1.2), 25.2(1) and 36(1)(b) of the *IRPA*¸ ss. 18(1) and 18(2) of the *IRPR*, ss. 368(1), 368(1.1), 368(2) of the *Criminal Code*, RSC 1985, c C-46 ("*Criminal Code*"), which are reproduced hereinafter:

> **Criminal Code**
>
> **Use, trafficking or possession of forged document**
>
> **368 (1)** Everyone commits an offence who, knowing or believing that a document is forged,
>
> **(a)** uses, deals with or acts on it as if it were genuine;
>
> **(b)** causes or attempts to cause any person to use, deal with or act on it as if it were genuine;
>
> **(c)** transfers, sells or offers to sell it or makes it available, to any person, knowing that or being reckless as to whether an offence will be committed under paragraph (a) or (b); or
>
> **(d)** possesses it with intent to commit an offence under any of paragraphs (a) to (c).
>
> **Punishment**
>
> **(1.1)** Everyone who commits an offence under subsection (1)
>
> **(a)** is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years; or
>
> **(b)** is guilty of an offence punishable on summary conviction.
>
> **Wherever forged**
>
> **(2)** For the purposes of proceedings under this section, the place where a document was forged is not material.

Immigration and Refugee Protection Act

Humanitarian and compassionate considerations — request of foreign national

25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

[…]

Exceptions

(1.2) The Minister may not examine the request if

[…]

(b) the foreign national has made a claim for refugee protection that is pending before the Refugee Protection Division or the Refugee Appeal Division;

[…]

Public policy considerations

25.2 (1) The Minister may, in examining the circumstances concerning a foreign national who is inadmissible or who does not meet the requirements of this Act, grant that person permanent resident status or an exemption from any applicable criteria or obligations of this Act if the foreign national complies with any conditions imposed by the Minister and the Minister is of the opinion that it is justified by public policy considerations.

[…]

Serious criminality

36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for

[…]

(b) having been convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years; or

[…]

Application

(3) The following provisions govern subsections (1) and (2):

[…]

(c) the matters referred to in paragraphs (1)(b) and (c) and (2)(b) and (c) do not constitute inadmissibility in respect of a permanent resident or foreign national who, after the prescribed period, satisfies the Minister that they have been rehabilitated or who is a member of a prescribed class that is deemed to have been rehabilitated;

(d) a determination of whether a permanent resident has committed an act described in paragraph (1)(c) must be based on a balance of probabilities; and

[…]

Immigration and Refugee Protection Regulations

Rehabilitation

18 (1) For the purposes of paragraph 36(3)(c) of the Act, the class of persons deemed to have been rehabilitated is a prescribed class.

Members of the class

(2) The following persons are members of the class of persons deemed to have been rehabilitated:

> **(a)** persons who have been convicted outside Canada of no more than one offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, if all of the following conditions apply, namely,
>
> > **(i)** the offence is punishable in Canada by a maximum term of imprisonment of less than 10 years,
>
> […]

III. **Issues**

[16] In this case, the issue is whether the Officer's decision was reasonable. More specifically, the Applicant points to alleged errors made by the Officer that raise the following questions at issue:

1. Should the Officer have considered the deemed rehabilitation of the Applicant under s. 36(3)(c) of the *IRPA* and ss. 18(1) and (2) of the *IRPR*?

2. Did the Officer fail in not considering any of the H&C factors brought by the Applicant in support of her permanent residence application under the Pathway Program?

IV. **Standard of review**

[17] The Supreme Court of Canada has established that when conducting judicial review of the merits of an administrative decision, other than a review related to a breach of natural justice and/or the duty of procedural fairness, the presumptive standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 23.

[18] In this case, the Applicant argues that the Court should use the correctness standard of review because “the question whether the Applicant is ineligible to submit an Application for permanent residence in Canada under the Public Policy is an issue of law for which the standard of review is correctness”. Counsel for the Applicant does not cite any case law to support that contention.

[19] To counter that argument, the Respondent argued that the reasonableness standard applies to a decision maker’s interpretation of statute connected to its function, citing *Vavilov* at para 109:

> *As stated above, a proper application of the reasonableness standard is capable of allaying the concern that an administrative decision maker might interpret the scope of its own authority beyond what the legislature intended. As a result, there is no need to maintain a category of “truly” jurisdictional questions that are subject to correctness review. Although a decision maker’s interpretation of its statutory grant of authority is generally entitled to deference, the decision maker must nonetheless properly justify that interpretation. Reasonableness review does not allow administrative decision makers to arrogate powers to themselves that they were never intended to have, and an administrative body cannot exercise authority which was not delegated to it. Contrary to our colleagues’ concern (at para. 285), this does not reintroduce the concept of “jurisdictional error” into judicial review, but merely identifies one of the obvious and necessary constraints imposed on administrative decision makers.*

[20] The Respondent is correct.

[21] The reasonableness standard or review is presumed, and the reviewing Court can only use the correctness standard of review if one of *Vavilov*’s exceptions applies. In this case, none of the exceptions referenced by the Supreme Court at para 17 of *Vavilov* apply.

[22] Moreover, in *Aje v Canada (Citizenship and Immigration)*, 2022 FC 811, the Honourable Mr. Justice Southcott recently applied the reasonableness standard to an officer's interpretation of the requirements of the Pathway Program public policy (at paras 19 and 29).

[23] Considering *Vavilov*'s framework, the case law of this Court on the public policy, and the Applicant's failure to cite any case law warranting a departure from the presumptive reasonable standard of review, this Court will review the Officer's decision with the reasonableness standard.

[24] A court applying the reasonableness standard does not ask what decision it would have made in place of that of the administrative decision maker. It does not attempt to ascertain the "range" of possible conclusions that would have been open to the decision maker, conduct a *de novo* analysis or seek to determine the "correct" solution to the problem: *Vavilov* at para 83.

[25] The law is to the effect that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *Vavilov* at para 125.

[26] A reasonable decision is one based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker. The reasonableness standard requires that a reviewing court defer to such a decision: *Vavilov* at para 85.

V. **Analysis**

A. *The Public Policy Framework: The Pathway Program*

[27] The Pathway Program is a result of a temporary public policy put in place:

> *In recognition of their exceptional service, Immigration, Refugees and Citizenship Canada (IRCC) put in place a Temporary Public Policy to facilitate the granting of a permanent residence for certain refugee claimants working in Canada's health care sector, providing direct patient care, during the COVID-19 pandemic.*

[28] The Pathway Program was created under s. 25.2 of the *IRPA:*

> *As such, I hereby establish that* ***pursuant to my authority under section 25.2 of the Immigration and Refugee Protection Act (the Act)****, there are sufficient public policy considerations that justify the granting of permanent residence to foreign nationals* ***who meet the eligibility criteria and conditions listed below****. [Our emphasis]*

[29] Section 25.2 of the IRPA specifically provides the condition that "if the foreign national complies with any conditions imposed by the Minister".

[30] All the conditions set out by the Minister are set out in the temporary public policy. The document in the record before the Court (Exhibit B to the Bello Affidavit dated January 25, 2022) that documents the temporary public policy underlying the Pathway Program is a Government of Canada document entitled "Temporary public policy to facilitate the granting of permanent residence for certain refugee claimants working in the health care sector during the COVID-19 pandemic" (the "Policy Document") and can be found on the Internet at this address:

https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/permanent-residence-healthcare-pandemic-canada.html

[31] For the purposes of addressing the issues raised in this application for judicial review, it is not necessary to set out the entirety of the conditions listed in the Policy Document. The condition at issue in this application for judicial review surrounds the condition "*is not inadmissible other than for any of the following conditions*" enumerated at condition 5 of the Policy Document.

> **Conditions (eligibility requirements) applicable to the principal applicants**
>
> Based on the public policy considerations, **delegated officers may grant permanent residence to foreign nationals who meet the following conditions:**
>
> A) The foreign national:
>
> […]
>
> 5. **Is not inadmissible other than for any of the following reasons:** having failed to comply with conditions related to their temporary stay including having overstayed a visa, visitor record, work permit or student permit or having worked or studied without being authorized to do so under the Act (as long as it was solely as a result of losing their work authorization when a removal order against them became enforceable as specified under Condition A)2 described above); having entered Canada without the required visa or other document required under the Regulations; having entered Canada without a valid passport or travel document. However for the purpose of the granting of the permanent residence pursuant to this public policy, the foreign nationals and their family members are required by subparagraph 72(1)(e)(ii) of the Regulations to provide the Department of Immigration, Refugees and Citizenship Canada any of the documents enumerated under subsection 50(1) of the Regulations. If the foreign national and their family members in Canada are unable to obtain any of the documents, enumerated under subsection 50(1) of the Regulations (e.g., valid

> passport or travel document), as required by subparagraph 72(1)(e)(ii) of the Regulations, an exemption from this requirement can be granted if these foreign nationals can provide any of the documents described in subsection 178(1) of the Regulations where such alternative document complies with the requirement of subsection 178(2) of the Regulations (specific wording of these provisions is provided in Annex B of this public policy). [Our emphasis]

[32] As per the Policy Document, persons who are inadmissible to Canada because of serious criminality (as will be elaborated in detail further) are "inadmissible for reasons other than those indicated in the Policy Document" (at condition 5 above) and are explicitly not eligible for permanent residence under the Pathway Program.

B. *Should the Officer have considered the deemed rehabilitation of the Applicant under s. 36(3)(c) of the IRPA and ss. 18(1) and (2) of the IRPR?*

[33] The Applicant argues that the Officer erred because he failed to consider whether the Applicant is a person deemed rehabilitated under s. 36(3)(c) of the *IRPA* and ss. 18(1) and (2) of the *IRPR*.

[34] The Applicant stated at para 12 of the Applicant's Memorandum that: "An assessment of the circumstances of a foreign national who is inadmissible, particularly under section 36(1)(b) of the *IRPA*, would naturally include consideration of the provisions of s. 36(3)(c) of the *IRPA* and ss. 18(1) and (2) of the Immigration and Refugee Protection Regulations, SOR/2002-227 [*IRPR*] which refers to a prescribed class of people who are deemed rehabilitated, due to passage of time".

[35] First, the "person deemed rehabilitated" argument was not before the Officer. *Vavilov* instructs that, in assessing the reasonableness of a decision, a reviewing court should consider the submissions of the party before the decision maker and "(t)his may explain an aspect of the decision maker's reasoning process that is not apparent from the reasons themselves, or may reveal that an apparent shortcoming in the reasons is not, in fact, a failure of justification, intelligibility or transparency." (para 94)

[36] Second, *Vavilov* instructs that "(o)pposing parties may have made concessions that had obviated the need for the decision maker to adjudicate on a particular issue" (para 94). Before the Officer, the Applicant conceded that she is inadmissible under s. 36(1)(b) of the *IRPA*. Applicant's counsel state in their submissions to the Officer: "Ms. Bello is criminally inadmissible to Canada" and "who, but for her criminal record, qualifies under the Health-Care Workers Permanent Residence Pathway Program (…)". The Applicant's affidavit before the Officer stated: "I am inadmissible to Canada pursuant to Section 36(1)(b) of the IRPA." The point of the Applicant's submission was to ask for an "exemption" or "waiver" from her inadmissibility.

[37] While this Court agrees with the Respondent that the Applicant's "person deemed rehabilitated" argument should not be entertained because it was not before the decision maker, the Applicant is in any event wrong about its deemed rehabilitation.

[38] The Applicant does not qualify for deemed rehabilitation, since she was convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act

of Parliament punishable by a maximum term of imprisonment of “at least 10 years”. Under ss. 18(1) and (2) of the *IRPR*, a person can only be deemed to have been rehabilitated if the offence is punishable in Canada by “less than ten years” of imprisonment. However, as the Officer correctly pointed out in its reasons for his decision, the Applicant was convicted of forging of documents that is an offence punishable by imprisonment for a term of not more than 10 years (s. 368(1.1) of the *Criminal Code*).

[39] The above reasoning is confirmed by the Honourable Justice Madam Johanne Gauthier in *Sun v Canada (Citizenship and Immigration)*, 2011 FC 708 at para 19:

> *The general scheme of IRPA, particularly in respect to serious criminality is reviewed and discussed in Medovarski as well as in Canada (Minister of Citizenship and Immigration) v Hyde, 2006 FCA 379 and need not be repeated here. The language of subsection 249(3) of the Criminal Code is clear and if there were any ambiguity (which I do not believe there is) it would be totally dissipated by considering the French version which makes it extremely clear that the maximum sentence of ten years is included. Thus, in the present case, the following will apply:*
>
> *a. Serious criminality is defined at subsection 36(1) as including offences committed outside of Canada which could have been punishable by a maximum term of at least ten years, meaning ten years or more.*
>
> *b. Subsection 249(3) of the Criminal Code provides for a term not exceeding ten years, meaning ten years or less.*
>
> *c. Pursuant to paragraph 36(3)(c) of IRPA and section 18 of the Regulations,* ***the benefit of deemed rehabilitation only applies to offences punishable by a maximum of less than ten years, meaning up to 9 years, 364 days.***
>
> ***[Our emphasis]***

[40] Similarly here, the Officer reasonably held that the Applicant cannot benefit from deemed rehabilitation.

C. *Did the Officer fail in not considering any of the H&C factors brought by the Applicant in support of her permanent residence application under the Pathway Program?*

[41] On the application under the Public Policy, the Applicant requested exemption for her s. 36(1)(b) of the *IRPA* serious criminality inadmissibility and refers to the Inland Processing Manual IP5 in respect of H&C applications. The Applicant argues that the Officer should have exercised authority under either s. 25.2 or s. 25(1) of the *IRPA* to exempt the Applicant from the Pathway Program eligibility requirements.

[42] The Officer reasonably refused by saying that this is an application under the temporary Public Policy for certain refugee claimants working in the health care sector and not an H&C application. The Officer noted that the Applicant is ineligible to submit an application for H&C consideration pursuant to s. 25(1) of the *IRPA* because the Applicant falls under s. 25(1.2)(b) of the *IRPA* in that she made a claim for refugee protection that is pending.

[43] For the reasons referenced below taken materially from the Respondent's Further Memorandum of Argument, the Court agrees that the Officer was right in not considering the Applicant's H&C arguments in this permanent residence application under the Pathway Program that falls under s. 25.2 of the *IRPA*.

[44] As this Court and the Court of Appeal have held, public policies enacted pursuant to s. 25.2 of the *IRPA* have no objective content. Rather, the content and intention of the policies lie wholly within the power of "those constitutionally entrusted with the power to set policy." The Pathway Program was implemented pursuant to s. 25.2 of the *IRPA*, and the Minister who set the policy made those that are inadmissible for serious criminality ineligible for consideration. In the words of the Federal Court of Appeal in *Tapambwa v Canada (Citizenship and Immigration*), 2019 FCA 34 at para 104 [*Tapambwa*]:

> First, there is no objective content to public policy. The content of public policy is vested in the Minister and has not been delegated (De Araujo v. Canada (Citizenship and Immigration), 2007 FC 363, 311 F.T.R. 306, at paragraphs 19–23). On the appellants' interpretation, the Minister has an open-ended obligation to consider all requests that the requirements of the IRPA be waived and to establish a relevant policy within which the request for a waiver would be considered. This would be a significant shift in, indeed a judicial amendment to, the legislative scheme. It would create, at the apex of the system, a further final appeal to the Minister in all cases, including those on the eve of removal.

[45] Furthermore, the Officer did not have the power to ignore or waive the eligibility requirements under s. 25.2 of the *IRPA*. Such a decision would have been contrary to the express terms of the Public Policy, and unreasonable. As explained in *Aje* at para 29, with reference to Abraham v Canada (Citizenship and Immigration), 2016 FC 449:

> [29] I return to the point, as confirmed in Abraham, that the standard of reasonableness applies to the Officer's interpretation of the TPP, meaning that some deference and latitude is to be afforded to the Officer. As stated in Abraham, if the wording of a ministerial policy leaves an officer implementing that policy no latitude in its interpretation, a decision that is contrary to that wording will be unreasonable (at para 17).

[46] The Applicant's arguments conflate s. 25.2 of the *IRPA* with s. 25(1) of the *IRPA*. While s. 25(1) of the *IRPA* engages specific considerations, the application here was made pursuant to a public policy under 25.2 of the *IRPA*.

[47] "Public policy considerations" were, by virtue of the *Balanced Refugee Reform Act*, extracted from s. 25(1) of the *IRPA* and placed within the sole remit and initiative of the Minister (*Tapambwa* at para 108). As explained by the Court of Appeal in *Tapambwa* at para 103, this section does not engage the same statutory requirements as s. 25(1) of the *IRPA*:

> [103] These similarities aside, there is, however, a stark distinction between subsection 25(1) and section 25.2. The former contains mandatory language. The Minister "must" consider requests for humanitarian and compassionate relief. Section 25.2 in contrast, is discretionary. The Minister "may" consider granting relief. This is not a situation where the permissive or discretionary word, "may," can be read as mandatory.

[48] An officer considering a "public policy" application under s. 25.2 is not conducting a full-blown H & C analysis, but is constrained by the terms of the public policy and "if the wording of a ministerial policy leaves an officer implementing that policy no latitude in its interpretation, a decision that is contrary to that wording will be unreasonable" (*Aje* at para 29).

[49] The Applicant did not apply under s. 25(1) of the *IRPA*. Moreover, as the Officer noted, the Applicant is statutorily unable to avail herself of s. 25(1) of the *IRPA* given her pending refugee protection claim. The Officer noted the application of s. 25(1.2)(b) of the *IRPA* states "The Minister may not examine the request if (…) (b) the foreign national has made a claim for refugee protection that is pending before the Refugee Protection Division or the Refugee Appeal Division".

[50] The Applicant does not contest that she has a pending refugee claim before the Refugee Protection Division, and has not convinced the Court that s. 25(1.2)(b) of the *IRPA* does not apply in this case.

[51] As such, I conclude that the Officer's decision is not unreasonable.

VI. **Conclusion**

[52] The application for judicial review is dismissed. Neither party proposed any question for certification for appeal, and none is warranted.

JUDGMENT in IMM-6690-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There are no questions for certification.

"Ekaterina Tsimberis"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6690-21
STYLE OF CAUSE:	OLAJUWON FATIMOT BELLO v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JULY 25, 2023
JUDGMENT AND REASONS:	TSIMBERIS J.
DATED:	AUGUST 10, 2023

APPEARANCES:

Adetayo G. Akinyemi	FOR THE APPLICANT
Charles Jubenville	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Adetayo G. Akinyemi Barrister and Solicitor North York, Ontario	FOR THE APPLICANT
Attorney General of Canada Department of Justice Canada Toronto, Ontario	FOR THE RESPONDENT