

Federal Court



Cour fédérale

Date: 20240822

Docket: IMM-2227-23

Citation: 2024 FC 1304

Ottawa, Ontario, August 22, 2024

PRESENT: The Honourable Madam Justice Aylen

BETWEEN:

**MONICA HERRERA SOTO
MATIAS REYES HERRERA
PAULA REYES HERRERA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Principal Applicant and her two children seek judicial review of a decision of a visa officer dated February 9, 2023, refusing their application for electronic travel authorizations [ETA]. The ETAs were refused on the basis that the Principal Applicant's husband (and the father of the two children) [Spouse] was found inadmissible under subsection 37(1) of the

Immigration and Refugee Protection Act, SC 2001, c 27 [*IRPA*]. As a result, by operation of subsection 42(2) of the *IRPA*, the Applicants were found to be inadmissible as well.

[2] This application was heard together with Court file no. IMM-2212-23, in which the Spouse sought judicial review of, among other things, the visa officer's determination that he was inadmissible to Canada pursuant to subsection 37(1) of the *IRPA*.

[3] In the lead up to the hearing of IMM-2212-23, the Respondent conceded that the visa officer's subsection 37(1) determination was unreasonable and should be set aside. As such, the parties agreed at the hearing of this matter that the visa officer's determination regarding the Applicants was no longer sustainable and should also be set aside. Accordingly, on consent of the parties, the application for judicial review shall be granted, the decision of the visa officer set aside and the matter remitted for redetermination by a different visa officer.

[4] Neither party proposed a question for certification and I agree that none arises.

JUDGMENT in IMM-2227-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The February 9, 2023 decision of the visa officer is set aside and the Applicants' ETA application is remitted to a different visa officer for redetermination.
3. The parties proposed no question for certification and none arises.

“Mandy Ayles”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2227-23

STYLE OF CAUSE: MONICA HERRERA SOTO, MATIAS REYES
HERRERA, PAULA REYES HERRERA v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: AUGUST 13, 2024

JUDGMENT AND REASONS: AYLEN J.

DATED: AUGUST 22, 2024

APPEARANCES:

Lorne Waldman FOR THE APPLICANTS

Christopher Ezrin FOR THE RESPONDENT

SOLICITORS OF RECORD:

Waldman & Associates FOR THE APPLICANTS
Barristers and Solicitors
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario