

Federal Court



Cour fédérale

Date: 20241003

Docket: IMM-7692-22

Citation: 2024 FC 1553

Ottawa, Ontario, October 3, 2024

PRESENT: Mr. Justice McHaffie

BETWEEN:

FULBERT JONAS AHOUANSOU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Reverend Fulbert Jonas Ahouansou's application for permanent residence on humanitarian and compassionate [H&C] grounds underscored the hardship he would face if returned to his native Benin, as well as his establishment in Canada. On the latter point, he focused on his integration into, and services provided to, a small but dynamic Francophone community in Halton Hills, where he serves as Pastor and Parish Administrator in the Roman

Catholic Church. His application included letters from the Chancellor of the Diocese of Hamilton and from many Francophone members of the parish, noting the importance of his presence to the community and the difficulty in finding Francophone Catholic priests in the area.

[2] A Senior Immigration Officer with Immigration, Refugees and Citizenship Canada refused Reverend Ahouansou's H&C application by decision dated July 27, 2022. While the Officer considered Reverend Ahouansou's establishment in Canada, and noted he is "involved in his community and liked," their decision provided no analysis of, and appears to have given no consideration to, the particular role played by Reverend Ahouansou in the minority Francophone community in Halton Hills. As this was a central aspect of Reverend Ahouansou's H&C application, I conclude the Officer's decision does not "meaningfully grapple with key issues or central arguments" raised by the application, as required of a reasonable administrative decision.

[3] The Officer's decision refusing Reverend Ahouansou's application for permanent residence on H&C grounds pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]* will therefore be set aside and the application will be remitted for redetermination by another officer.

II. Issues and Standard of Review

[4] On this application for judicial review, Reverend Ahouansou raises two issues:

A. Did the Officer ignore evidence relevant to establishment in Canada?

B. Did the Officer err in their assessment of his hardship if he returned to Benin?

[5] These issues go to the merits of the Officer's refusal of Reverend Ahouansou's H&C application. The Court reviews such issues on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paras 43–44. In applying the reasonableness standard, the Court will not overturn a decision simply because it might have come to a different conclusion. Rather, the decision will only be set aside as unreasonable if it fails to show the necessary justification, transparency, and intelligibility, or if it is not justified in relation to the relevant factual and legal constraints that bear on it: *Vavilov* at paras 99–107.

III. Analysis

A. *The Officer's Assessment of Establishment was Unreasonable*

(1) Reverend Ahouansou's application for permanent residence on H&C grounds

[6] Reverend Ahouansou arrived in Canada in 2010. He has acted as a Pastor with the Diocese of Hamilton since that time, holding employment as Parish Administrator at the Sacré-Coeur Parish in Georgetown since June 2011. He has held status in Canada on a Temporary

Resident Visa that has been renewed periodically. He is able to work as a Pastor without a work permit pursuant to paragraph 186(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[7] In June 2021, Reverend Ahouansou filed an application for permanent residence on H&C grounds. As noted above, Reverend Ahouansou's application raised two primary factors for consideration: the difficulties or hardships he would face in Benin, and his establishment in Canada.

[8] The hardships Reverend Ahouansou described in Benin relate to actions by ecclesiastical authorities in that country. His affidavit refers to his successful management of a significant parish in Benin, and to resulting animosity from certain detractors within his archdiocese of Cotonou, who launched a campaign against him. To resolve these tensions, the Archbishop of Cotonou sent him on mission to Canada, where he has been since 2010. Several subsequent interactions with the archdiocese in Benin led him to understand he had effectively been abandoned in Canada and that he was considered "persona non grata" in Benin. These included interactions during a 2018 visit to Canada by the current Archbishop of Cotonou, and a return visit to Benin in 2019 by the Bishop of Hamilton, accompanied by Reverend Ahouansou. Reverend Ahouansou therefore anticipated considerable difficulty in reintegrating into a pastoral role to pursue his vocation if he returned to Benin.

[9] With respect to his establishment in Canada, Reverend Ahouansou underscored the ten years he had spent as Pastor in the Sacré-Coeur Parish, serving the Francophone Catholic

community in the Georgetown/Halton Hills area. In addition to describing his relationship with his parishioners, Reverend Ahouansou's application included letters of support from the Diocese, other priests, and numerous parishioners. Many of these letters, including those from Church officials, stress the important role Reverend Ahouansou took on in ministering to the Francophone community, and the lack of French-speaking priests in the area. They note the difficulty the parish had in finding a Francophone Catholic priest when his predecessor retired. Indeed, one parishioner suggests that given these difficulties, if Reverend Ahouansou were to leave, the parish would be forced to close the church in Georgetown.

[10] In this vein, Reverend Ahouansou's potential departure is described as creating a void, leaving the Francophone community in the area "without a spiritual leader." The Director of the local French Catholic school board noted the importance of having a priest such as Reverend Ahouansou for the survival of the parish, and that without him, the parish and its community would die and be assimilated into the Anglophone community. Parishioners express the same view, describing his key and essential role in ensuring the vitality and success of the Francophone community and its Catholic schools. This role was put forward as showing Reverend Ahouansou's significant establishment in Canada. In written submissions in support of the application, Reverend Ahouansou's counsel also noted that although it was not one of the standard factors on which H&C applications were determined, Reverend Ahouansou's contribution to the preservation of the minority Francophone community in Halton Hills was one that provided a significant social and cultural advantage to Canada.

(2) The Officer's analysis of establishment

[11] The Officer reviewing Reverend Ahouansou's application concluded that although he had been in Canada for about 10 years, the evidence showed that he has "a certain degree of establishment in Canada, but nothing more." They noted that Reverend Ahouansou had shown financial self-sufficiency and that the letters of support show that "he seems involved in his community and liked" and seems to have "some ties to Canada and his community." They therefore gave some positive weight to his establishment. At the same time, the Officer noted that Reverend Ahouansou had been to Benin several times since he has been in Canada, and that he has brothers and a sister there, such that it is "reasonable to consider" that he still has ties to Benin and that his family ties are stronger there than in Canada.

[12] In undertaking the foregoing analysis, the Officer did not refer to the role Reverend Ahouansou played in the Francophone Catholic community in Georgetown/Halton Hills. They did not refer to the fact that Reverend Ahouansou was sufficiently established in that community that he was considered to play a key role in the ongoing vitality, and even existence, of the community and its church, that his work was considered "vital" in the Francophone community, and that his absence would leave a void that would be difficult to fill, and even a sense of abandonment.

(3) The Officer's analysis is unreasonable

[13] The Supreme Court of Canada in its decision in *Vavilov* stressed that administrative decision makers must adopt a "culture of justification," in which the exercise of delegated public

power is transparently and intelligibly justified through reasons that demonstrate, among other things, that the decision maker has taken the evidentiary record into account and has “actually *listened* to the parties” [emphasis in original]: *Vavilov* at paras 2, 14–15, 125–128. While recognizing that an administrative decision maker cannot be expected to respond to every argument or line of possible analysis raised by a party, the Supreme Court asserted that a decision maker’s failure to “meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it”: *Vavilov* at para 128; *Wei v Canada (Citizenship and Immigration)*, 2023 FC 1125 at paras 59–60;

[14] These principles, important in all administrative decisions, are of particular relevance in H&C decisions, where the very issue is whether an applicant’s particular circumstances would excite a desire to relieve their misfortunes: *Kanhasamy* at para 21. A reasonable decision on an H&C application demonstrates to the applicant that the officer was alert and sensitive to the circumstances raised, and “actually *listened*” to the submissions they made as to why the H&C considerations in their case justify relief from the provisions of the *IRPA*: *IRPA*, s 25(1).

[15] In the present case, Reverend Ahouansou’s particular role in the Francophone Catholic community in Georgetown and Halton Hills was central to the case he sought to make for H&C relief. It was referred to in his own affidavit, it was highlighted in his counsel’s submission letter, and it was underscored in most of the letters of support written on his behalf. Yet the Officer apparently gave no consideration to this factor, or at least presented no discussion of it. Nor did they explain why, despite the evidence and submissions regarding

Reverend Ahouansou's important role in the community, they found he had a "certain degree of establishment in Canada, but nothing more." Similarly, the Officer's conclusion that Reverend Ahouansou "seems involved in his community and liked," while true, does not adequately or reasonably describe the evidence and submissions about his role in the Francophone community. I agree with Reverend Ahouansou that the Officer appears to have ignored the crux of his application and that this renders their analysis of his establishment unreasonable: *Nagamany v Canada (Citizenship and Immigration)*, 2019 FC 187 at paras 32–35; *Guzman de la Cruz v Canada (Citizenship and Immigration)*, 2019 FC 937 at paras 8–11.

[16] Contrary to the Minister's submissions, this is not simply a case of an officer not mentioning a particular piece of evidence or choosing not to address a minor point. Rather, the Officer did not address the central aspect of one of the two primary issues on which Reverend Ahouansou's application was based. Nor was Reverend Ahouansou attempting to create a new immigration stream based on a social and cultural advantage to Canada, as the Minister contends. He was pointing out his particular circumstances, the role he came to have in the Francophone community, and reasonably relying on this as an H&C factor to be considered in the determination of his application. It was incumbent on the Officer to consider and assess this factor in their decision. Their failure to do so renders the decision unreasonable.

B. *The Officer's Assessment of Hardship*

[17] As the foregoing is sufficient to dispose of this application, I need not address Reverend Ahouansou's arguments regarding the Officer's consideration of hardship in detail. I do note, however, that I agree with Reverend Ahouansou that the Officer appears to have

primarily analyzed an assertion that Reverend Ahouansou did not make, namely that he would be in physical danger if he returned to Benin. Reverend Ahouansou presented his H&C application on the basis that it would be difficult if not impossible for him to pursue his vocation in Benin since the ecclesiastical authorities had made clear that he was no longer welcome or supported there.

[18] While the Officer did briefly discuss this allegation, they dismissed it on the basis that Reverend Ahouansou had “not included any documents or evidence in the file to support his allegations.” Beyond Reverend Ahouansou’s affidavit, which clearly describes the circumstances and does not appear to have been doubted by the Officer, it is difficult to know what other “documents or evidence” the Officer anticipated seeing. The Officer then went on to note that the evidence indicated that Reverend Ahouansou could safely return to Benin, and even criticized Reverend Ahouansou for not presenting country condition evidence or explaining how “the current situation in Benin affects him personally.” However, neither the general situation in Benin nor the question of personal risk in that country was the basis for Reverend Ahouansou’s submissions on hardship.

[19] As noted, I need not determine whether the Officer’s conclusions with respect to hardship and supporting evidence are unreasonable in light of my conclusion on the establishment analysis. However, I underscore the importance of assessing the factors put forward by an H&C applicant on the basis they are presented.

IV. Conclusion

[20] The application for judicial review is therefore granted. Reverend Ahouansou's application for permanent residence on H&C grounds will be remitted for redetermination by a different officer.

[21] Neither party proposed a question for certification. I agree that none arises in the matter.

JUDGMENT IN IMM-7692-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is granted. The refusal of Fulbert Jonas Ahouansou's application for permanent residence on humanitarian and compassionate grounds, dated July 27, 2022, is set aside and the application is remitted for redetermination by a different officer.

“Nicholas McHaffie”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7692-22

STYLE OF CAUSE: FULBERT JONAS AHOUANSON v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: MARCH 27, 2024

JUDGMENT AND REASONS: MCHAFFIE J.

DATED: OCTOBER 3, 2024

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