Date: 20250825

Docket: IMM-14468-24

Citation: 2025 FC 1417

Toronto, Ontario, August 25, 2025

PRESENT: Mr. Justice Brouwer

BETWEEN:

EDUARDO ALEXIS DURAN BANTAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] In this application Eduardo Alexis Duran Bantan (Mr. Duran) seeks judicial review of the decision of an Immigration Officer refusing to reconsider his application for permanent residence on humanitarian and compassionate grounds (“H&C”). For the reasons set out below, I find that the Officer’s reconsideration decision was unreasonable and must be set aside.

I. BACKGROUND

[2] Mr. Duran came to Canada in December 2014, when he was 25 years old. A citizen of Panama, he originally entered as a visitor but subsequently received authorization to study here. He lives with his common-law spouse of five years, who is a protected person in Canada, and their Canadian citizen daughter, who is now three years old. Mr. Duran completed English as a Second Language training and is self-employed through his own registered renovation business. An active and contributing member of his local and religious communities, Mr. Duran volunteers, acts as a church deacon, donates to charity, supports his family and pays his taxes.

[3] In 2023, around the same time that his spouse's refugee claim was accepted, Mr. Duran applied for permanent residence on humanitarian and compassionate grounds pursuant to s. 25(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [*IRPA*]. He based his application on several well-established grounds under this provision (*Kanthasamy v. Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 27 [*Kanthasamy*]) including his establishment in Canada, separation from his spouse and child, the best interests of the child, and the hardships he would face in Panama if required to go back and apply to immigrate from there. This was Mr. Duran's second H&C application; a previous application had been refused in 2018. Mr. Duran had also previously applied for refugee protection on what he apparently admitted during his refugee hearing were "false pretenses." That claim, along with a subsequent appeal and application for leave for judicial review, were dismissed, as was an application for a Pre-Removal Risk Assessment.

[4] Mr. Duran's H&C application was rejected by an Immigration Officer by decision dated February 9, 2024. The Officer found that Mr. Duran's establishment was not "extraordinary" and warranted little weight; conditions in Panama would expose him to "some hardship" warranting only "some positive weight" in the overall balancing, and that the best interests of his child weighed substantially in favour of acceptance but were not sufficient to justify granting the application. That decision is the subject of a separate judicial review, the judgment in which is being released concurrently with this judgment (*Duran Bantan v Canada (Minister of Citizenship and Immigration)*, [IMM-8570-24] 2025 FC 1416 [*Duran Bantan 1*]).

[5] On May 17, 2024, Mr. Duran requested reconsideration of his H&C application based on evidence that had not been submitted with the initial application by Mr. Duran's previous counsel, namely the murders of Mr. Duran's half-brother and sister-in-law in 2023 and Mr. Duran's inclusion in his spouse's newly filed application for permanent residence as a protected person, which he said would take over four years to process if he were returned to Panama. He also challenged the reasonableness of the Officer's establishment analysis, providing jurisprudence to show that it was an error for H&C decision makers to apply an elevated threshold of "extraordinary establishment" to the analysis.

[6] Although the Officer agreed to reopen and reconsider the application to assess the new evidence and submissions, by decision dated July 25, 2024, the Officer confirmed the previous refusal. In a brief "addendum" to the initial decision, the Officer found that Mr. Duran had not submitted "any new information or evidence with regard to his establishment" and therefore the "assessment and weight given to this factor remain unchanged." The Officer accepted the new

evidence regarding the murder of Mr. Duran's half-brother and sister-in-law but found that there was no evidence that Mr. Duran himself was being targeted and therefore the murders did not change the previous evaluation of hardship, so "the weight given to this factor remains unchanged." As for the best interests of Mr. Duran's child, and the impact that processing delays in his spouse's permanent residence application would have on family separation, the Officer deemed it "speculative to suppose that [the application] would result in approval, regardless of whether the applicant is in Canada or Panama," and again maintained the previous determination that while the best interests of Mr. Duran's daughter were "an important factor with substantial weight, the new information is still insufficient to warrant a positive decision in this case. Accordingly, the decision is unchanged."

II. ISSUES

[7] Mr. Duran raises three grounds for this Court's review:

A. Whether the Officer erred by imposing an unreasonably elevated threshold when assessing Mr. Duran's establishment in Canada;

B. Whether the Officer erred in the assessment of the best interests of Mr. Duran's child; and

C. Whether the Officer erred in the assessment of the evidence of the hardship of returning to Panama.

[8] The standard of review applicable to the issues raised by Mr. Duran is reasonableness. Reasonableness requires an internally coherent and rational chain of analysis that is justified in relation to the facts and law bearing upon it (Canada (Minister of Citizenship and Immigration) v

Vavilov, 2019 SCC 65 at para 85 [*Vavilov*]). A reasonable decision is one that is justified, intelligible and transparent (*Vavilov* at paras 15, 100) and that meets the requirement of "responsive justification" (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 10, 76). Where, as here, "the impact of a decision on an individual's rights and interests is severe, the reasons provided to that individual must reflect the stakes" (*Vavilov* at para 133).

III. ANALYSIS

A. *Establishment*

[9] I have already found that the officer's initial assessment of Mr. Duran's establishment in Canada was unreasonable because the officer imposed an elevated threshold of "extraordinary establishment" without justification (*Duran Bantan 1* at para 14). Mr. Duran gave the Officer an opportunity to correct this error before coming to this Court, providing the officer with detailed arguments and jurisprudence to show that the approach they took to the assessment of establishment was unreasonable. Not only did the officer fail to correct their error, but they also failed to analyze or even consider the additional submissions and jurisprudence put to them by Mr. Duran, instead simply confirming their initial determination.

[10] The Officer's determination on this issue was unreasonable both for the reasons set out in *Duran Bantan 1* at paragraph 14 and because the Officer failed to engage with the new arguments put to them by Mr. Duran. While it was open to the Officer to disagree with Mr. Duran's argument that they had erroneously applied a heightened "extraordinary establishment" threshold, the principle of responsive justification required that the officer explain the basis upon which they came to such a conclusion. Instead, there is silence. It is not clear that the officer

even read the submissions and jurisprudence put to them, much less that they came to a reasoned conclusion on the points raised. This is a further ground upon which to set aside the reconsideration decision.

B. *Best interests of the child*

[11] The Officer's reasoning upon reconsideration of the best interests of the child repeats the error made in the initial decision and is thus unreasonable for the same reasons (*Duran Bantan 1* at paras 17-21). As before, the Officer has failed to provide a rational chain of analysis explaining how the finding that the best interests of Mr. Duran's young daughter are "an important factor with substantial weight" supports the conclusion that, even with the new evidence confirming a separation of at least four years, these interests remain "insufficient to warrant a positive decision in this case."

[12] Given the interests at stake – which are required to be "a singularly significant focus and perspective" in H&C applications (*Kanthasamy* at para 40) – more was required of the officer (*Vavilov* at paras 90, 99, 105, 133).

[13] As I have already found that the Officer's assessment of establishment and the best interests of the child were unreasonable, I decline to make a further, and unnecessary, finding about the officer's hardship analysis. The reconsideration decision is unreasonable and must be set aside.

[14] The parties have not proposed a serious question of general importance for certification and I find that none arises.

JUDGMENT in IMM-14468-24

THIS COURT'S JUDGMENT is that:

1. The Application is granted.

2. The reconsideration decision of the Officer dated July 25, 2024, is set aside.

3. No question is certified.

"Andrew J. Brouwer"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

RICHARD WAZANA	FOR THE APPLICANT
MARGHERITA BRACCIO	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Richard Wazana Barrister & Solicitor	FOR THE APPLICANT
Margherita Braccio Attorney General of Canada	FOR THE RESPONDENT