Federal Court Cour fédérale

Date: 20260416

Docket: IMM-8338-25

Citation: 2026 FC 507

Toronto, Ontario, April 16, 2026

PRESENT: Madam Justice Conroy

BETWEEN:

SEUN ABIODUN ODULEYE
TEMITOPE ESTHER OGUNGBAMILA
ANJOLAOLUWA JOAN ODULEYE

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicants seek judicial review of an immigration officer's [Officer] decision, dated February 22, 2025, to refuse their application for permanent residence on humanitarian and compassionate [H&C] grounds. For the reasons that follow, the judicial review is granted.

[2] The Applicants – a married couple and their eleven-year-old daughter – entered Canada in 2018.

[3] Their H&C application relied on three grounds: their establishment in Canada, including contributions by the Principal Applicant as a personal support worker during the COVID pandemic; the best interests of the child [BIOC]; and hardship if required to return to Nigeria.

[4] The Applicants raise several issues which the parties agree all attract a standard of review of reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 SCR 653 [*Vavilov*].

[5] I conclude the decision is unreasonable for the following reasons:

a. A failure to transparently assess the weight of each factor, coupled with a search for exceptional establishment in Canada; and

b. A failure to properly assess BIOC.

I. <u>Lack of transparency & search for exceptionality</u>

[6] *Vavilov* teaches us that administrative decision-makers have a responsibility to justify the basis upon which they arrived at a particular conclusion (para 96). The reasons must be read holistically and contextually for the purpose of understanding the basis of a decision: *Vavilov* at para 97. A reasonable decision enables the court to readily draw lines to “connect the dots on the page”: *Vavilov* at para 97.

[7] Respectfully, there are some “dots” missing from the reasons under review.

[8] The Officer considered each of the three grounds raised by the Applicants (establishment, BIOC and hardship) under separate headings. The facts relevant to each ground are reviewed under these headings. However, the Officer failed to state what weight – positive, negative or neutral – was ultimately assigned to each ground. The Officer's conclusions on each ground are as follows:

1. *Establishment*: "The applicants' circumstances reflect efforts to establish themselves in Canada. However, their level of establishment is not demonstrably beyond what would be expected of individuals in similar circumstances."

2. *BIOC*: "These considerations, while significant, have been assessed within the broader context of this H&C application."

3. *Hardship*: "These factors have been assessed within the broader context of this H&C application."

[9] The "Conclusion" section of the reasons does little to shed light on the Officer's weighing exercise. It states:

> Taking into account all the evidence submitted, on a cumulative basis (*Ozdemir v. Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331), I have considered the extent to which the applicants, given their particular circumstances, would face challenges if required to apply for permanent residence from abroad. While some level of hardship has been raised, this alone does not generally justify relief under subsection 25(1).
>
> After assessing all relevant factors, I find that the applicants have not demonstrated sufficient grounds to warrant a positive exemption under subsection 25(1) of the IRPA. As a result, the application is refused.

[10] The most that can be inferred from this is that the Officer may have placed some positive weight on the ground of hardship. But the phrases "taking into account all the evidence" and "assessing all relevant factors" do not make it possible to understand how the Officer weighed

BIOC and establishment in coming to their conclusion: *Cardoso Vaz v. Canada (Citizenship and Immigration)*, 2022 FC 1703 at para 22; *Vavilov* at para 103.

[11] When an officer considers several factors but fails to explain the relative weight assigned to each, the resulting "black box" makes it challenging for the parties and a reviewing court to determine if the logic is sound or if the conclusion was driven by irrelevant or erroneous considerations. On its own, it may not be enough to warrant judicial review. However, when considered alongside another issue raised by the Applicants, it leads me to lose confidence in the decision's reasonability.

[12] The Applicants argue that in assessing establishment, the Officer erred in searching for exceptionality and imposed an elevated legal threshold: *Galindo Caballero v Canada (Citizenship and Immigration)*, 2024 FC 642 at para 18 [*Galindo*].

[13] The Respondent argues that "comparing an applicant's situation with similarly situated individuals is not inherently unreasonable. This Court has found that while it is permissible to use words such as "unusual" in an attempt to situate the establishment on a spectrum, an Officer must not limit their ability to weigh all relevant considerations"

[14] Justice Turley, in *Galindo* at paragraph 33, framed the enquiry as follows:

> In other words, simply characterizing an applicant's level of establishment as "usual," "ordinary," or "common" is insufficient to vitiate an officer's decision. However, what is problematic is using these terms to invoke or impose a threshold of exceptionality on an applicant. Each case will therefore necessarily turn on an **assessment of the H&C officer's use of such terms in context to**

> **determine whether they are used descriptively (which is reasonable) or as a legal test (which is not reasonable)** … .
>
> [Emphasis added]

[15] There is no indication whatsoever from the reasons that any positive weight was given to the Applicants' establishment in Canada. In these circumstances, I infer that the Officer's analysis of the Applicants' establishment turned on a search for exceptionality and was thus unreasonable: *Farhat v Canada (Citizenship and Immigration)*, 2023 FC 1427 at para 31.

II. Failure to properly assess BIOC

[16] Under the BIOC factor, the Officer notes that the child was three years old when she arrived in Canada and has been continuously enrolled in school and extracurricular activities since then. The reasons then state:

> The applicants indicate concerns about differences in the education system and potential difficulties in adjusting to a new environment. However, the child has gained skills and knowledge through their education and experiences in Canada that could contribute positively to their academic progress and social integration in Nigeria. The applicants have not provided sufficient evidence to establish that the child would be unable to continue their education or adapt to a new setting upon return.

[17] The Applicants submit that the Officer erred by speculating on what the child could endure if returned to Nigeria and argue that this is the antithesis of the BIOC analysis.

[18] I agree and in fact would go further and conclude that the reasons reveal a basic misunderstanding of the BIOC analysis. An assessment of what is in a child's best interests

requires a focus on their overall well-being in a manner responsive to their particular age, capacity, needs and maturity: *Kanthasamy v. Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 35 [*Kanthasamy*]. These interests must be well identified, defined and then examined "with a great deal of attention" in light of all the evidence: *Kanthasamy* at para 39, citing *Legault v. Canada (Minister of Citizenship and Immigration)*, 2002 FCA 125 at paras 12 and 31; *Kolosovs v. Canada (Minister of Citizenship and Immigration),* 2008 FC 165 at paras 9-12. It is not evident from the reasons that any of this was done here.

[19] Rather, the reasons narrowly and incorrectly focus on whether the Applicants had "established" that their daughter could attend school in Nigeria or would be unable to adapt. A child's ability to attend school and eventually adapt to their country of origin does not mean returning there is in their best interests.

[20] Where the interests of children are minimized – as they were here - the decision will be unreasonable: *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at para 75.

[21] This ground alone provides a sufficient basis to set aside the decision.

JUDGMENT in IMM-8338-25

THIS COURT'S JUDGMENT is that:

1. The judicial review is granted.
2. The H&C application shall be remitted to a different immigration officer to decide.
3. There is no question for certification.

"Meaghan M. Conroy"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-8338-25
STYLE OF CAUSE:	SEUN ABIODUN ODULEYE, TEMITOPE ESTHER OGUNGBAMILA, ANJOLAOLUWA JOAN ODULEYE v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
DATE OF HEARING:	APRIL 8, 2026
JUDGMENT AND REASONS:	CONROY J.
DATED:	APRIL 16, 2026

APPEARANCES:

Justin Heller	FOR THE APPLICANTS
Braelyn Rumble	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lewis and Associates LLP Barristers and Solicitors Toronto, Ontario	FOR THE APPLICANTS
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT