

Federal Court



Cour fédérale

Date: 20131205

Docket: IMM-10013-12

Citation: 2013 FC 1222

Toronto, Ontario, December 5, 2013

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

JEAN ROSALIE MORALES LAOMOC

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION AND THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS (CANADA BORDER
SERVICES AGENCY)**

Respondents

REASONS FOR ORDER AND ORDER

[1] The present Application is a challenge to an Immigration Officer's (Officer) in-land spousal sponsorship decision dated December 7, 2012 in which the determination was made that the Applicant's marriage to her Canadian wife was not genuine and was entered into primarily for the purpose of acquiring immigration status.

[2] In the decision the Officer provides the following rationale for arriving at the negative decision:

The applicant submits that her marriage to her sponsor is genuine and was not entered into primarily for the purpose of acquiring status or privilege under Immigration Refugee Protection Act (IRPA).

The sponsor and the applicant provided documents (both before and during their interview) in support of their relationship, which included, but was not limited to:

- Record of Solemnization
- Marriage Certificate M762742
- Applicant's Passport UU0689931
- Applicant's Birth Certificate
- Sponsor's Birth Certificate
- Sponsor's Passport WN676037
- Sponsor's employment Letter Sponsor's Citizenship Card
- T4 or notice of assessment for 2007,2008 & 2009 tax years Sponsor
- Current bank account statements for sponsor(bills, cred~ cards, phone bills)
- Applicant listed as beneficiary on sponsor's bank account (Scotia Bank)
- Applicant's Accidental Death Insurance (Sponsor listed as beneficiary)
- Letters of support from Family doctor, friends, and family

The documents provided were not, by themselves, determinative of a genuine relationship or of cohabitation.

During the interview both the applicant and the sponsor had several discrepancies with their responses to questions asked.

(Decision, p.2)

[3] In the decision the Officer describes four “discrepancies” on the following topics: whether a roommate was living in the sponsor’s house when the Applicant moved in; where the Applicant was living before she moved in; the date on which the Applicant and her sponsor first had “sexual

relations”; and why the sponsor would be nonchalant in learning that the Applicant had lied to her to make her jealous. Following this description, the Officer concludes as follows:

The applicant and the sponsor have provided letters of support regarding their relationship, however, after careful review of all the written submissions as well as the answers given during the interview, I am not satisfied that the applicant and the sponsor are in a genuine marriage and the cohabiting with each other. Furthermore when presented with my concerns at the end of the interview, neither the applicant nor the sponsor were able to offer satisfying explanations to these concerns.

In light of the overall evidence before me and based on the balance of probabilities, I am not satisfied that their marriage is genuine and has not been entered into primarily for the purpose of acquiring status under IRP A, as per R4 of the Immigration Refugee Protection Regulations.

(Decision, p. 3)

[4] While the letters of support are mentioned in the decision and effectively dismissed, the Officer does not say one word about any of the other documentary evidence presented by the Applicant to prove the fact that, at the time of the decision, she and her wife enjoyed a genuine marriage for four years and cohabited for five years. In the course of the hearing of the present Application, I reviewed the evidence that comprises some 100 pages of apparently authentic copies of verifiable business records. The evidence all goes to support the purpose for which it was advanced.

[5] In my opinion, given the volume and apparent relevance of the documentary evidence to the issues under consideration, the Officer was required to carefully consider the evidence and to make findings with respect to its relevance and weight. I find that the Officer’s apparent failure to perform this requirement renders the decision unreasonable.

ORDER

THIS COURT ORDERS that for the reasons provided, I set aside the decision under review and refer the matter back for reconsideration by a different immigration officer.

There is no question to certify.

"Douglas R. Campbell"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-10013-12

STYLE OF CAUSE: JEAN ROSALIE MORALES LAOMOC V THE
MINISTER OF CITIZENSHIP AND IMMIGRATION
AND THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS (CANADA BORDER
SERVICES AGENCY)

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 3, 2013

**REASONS FOR ORDER AND
ORDER:** CAMPBELL J.

DATED: DECEMBER 5, 2013

APPEARANCES:

Bahar Karbakhsh-Ravari FOR THE APPLICANT

Veronica Cham FOR THE RESPONDENTS

SOLICITORS OF RECORD:

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