Federal Court Cour fédérale

Date: 20140506

Docket: IMM-4184-13

Citation: 2014 FC 431

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, May 6, 2014

PRESENT: The Honourable Mr. Justice Noël

BETWEEN:

MARIE CHANTAL MADIKA BIOSA

Applicant

and

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

REASONS FOR ORDER AND ORDER

I. Introduction

[1] This is an application under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for judicial review of a decision dated June 12, 2013, by the

Minister's delegate, Philippe Boucher Legault, a Canada Border Services Agency [CBSA] officer, in which he determined that the applicant's refugee claim was ineligible to be referred to the Refugee Protection Division [RPD] pursuant to the Canada-U.S. Safe Third Country Agreement [the Agreement] and issued an exclusion order against the applicant.

II. Facts

[2] The applicant is a citizen of the Democratic Republic of Congo [DRC].

[3] On June 12, 2013, she entered Canada from the United States, accompanied by her seven children, and they all claimed refugee protection in Canada on their arrival.

[4] The applicant's refugee claim was determined to be ineligible to be referred to the RPD under the IRPA, the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] and the Agreement, and a report setting out the relevant facts was prepared pursuant to subsection 44(1) of the IRPA.

[5] The Minister's delegate examined the report and was of the opinion that it was well-founded. An exclusion order was then issued against the applicant.

[6] The refugee claims of the applicant's children were allowed because they fell under one of the exceptions to the Agreement set out in the IRPR.

[7] The applicant and her children had already made refugee claims on August 31, 2012, but all the claims had been determined to be ineligible to be referred to the Refugee Division. She brought an application for judicial review of that refusal, and the respondent consented to the applicant and her children appearing at the border again. The current application for judicial review relates to the decision made as a result of this second attempt where, this time, the applicant's claim was rejected but not the children's. She then decided to entrust her children to her brother-in-law, a Canadian resident and the children's uncle.

III. Impugned decision

[8] The short decision is accompanied by observations recorded in the computer system. They state that the refugee claim was determined to be ineligible to be referred to the RPD pursuant to paragraph 101(1)(*e*) of the IRPA because the applicant "came directly or indirectly from a country designated by the regulations, other than a country of [her] nationality or [her] former habitual residence". The applicant arrived from the United States, a state designated as a safe country by the IRPR, and since her claim did not fall under any of the exceptions to the Agreement in the IRPR, she had to return to the United States. The children had a family connection in Canada because their paternal uncle lives here, and their refugee claims were determined to be eligible to be referred to the RPD since, unlike their mother, they fell under one of the exceptions to the Agreement. The applicant was told that she could take her children with her to the United States and file a claim there or leave the children with their uncle in Canada and make her own claim in the United States.

[9] An exclusion order was issued against the applicant pursuant to subsection 44(2) of the IRPA stating that the applicant was inadmissible under section 41 of the IRPA because she failed to comply with the Act, specifically paragraph 20(1)(*a*) of the IRPA and section 6 of the IRPR; these two provisions require foreign nationals to establish that they hold the visa or other document required to seek to establish permanent residence in Canada.

IV. Applicant's arguments

[10] The applicant argues that the impugned decision in this case cannot stand, *inter alia*, because the officer improperly applied the criteria associated with the exceptions to the Agreement and because the decision was made without regard to some important evidence. The applicant should have been admitted to Canada under the family member exception since she has a niece in Canada. Indeed, the applicant's brother-in-law (her spouse's brother) lives in Canada with his daughter, a Canadian citizen, who is automatically the applicant's niece for the application of the administrative provisions of the Agreement. During her examination at the port of entry, the applicant answered that she did not have a niece in Canada due to the fatigue and stress she was experiencing and the traumas she was recovering from. Her claim should also have been allowed under the exception for public interest and the best interests of the seven children. The return of the applicant and her children to the DRC would expose them to a huge risk to their safety and physical and psychological integrity, *inter alia*, because the applicant's spouse is a member of the opposition in a corrupt and repressive government. The best interests of the children also dictate that they not be separated from their mother or returned to the DRC.

[11] Moreover, the CBSA officer's decision infringes the protections guaranteed under the *Canadian Charter of Rights and Freedoms* (Part I of *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c 11) [Canadian Charter] and contravenes Canada's international obligations under various treaties that Canada is a party to because the DRC is a country under a moratorium as a result of the atrocities committed there; returning the applicant and her children to that country would violate, *inter alia*, sections 7 and 12 of the Canadian Charter.

V. Respondent's arguments

[12] The respondent points out that the burden in this case was on the applicant. Because she entered Canada from the United States, it was entirely reasonable for the officer to find that the claim was ineligible to be referred to the Refugee Protection Division and to issue a removal order against her.

[13] The applicant claims that she has a Canadian niece, but she stated the opposite during her examination. Indeed, she did not tell the officer about this niece. This statement, by the applicant's own admission, constitutes fresh evidence, and the Court cannot take it into consideration in these proceedings. Moreover, there is no evidence corroborating the applicant's allegations.

[14] In addition, regarding the public interest, the best interests of the children and the applicant's arguments concerning the Canadian Charter, it must be noted that the applicant was not returned to the DRC but to the United States. Nor were the children returned to the DRC;

they stayed in Canada in accordance with their mother's wishes. If she feared being separated from her children, she could have returned to the United States with them and made a claim for the entire family in that country. Moreover, the Minister's delegate did not have the discretion to disregard the relevant provisions.

VI. Applicant's reply

[15] The applicant was misled by the immigration officer at customs on the issue of whether she had a nephew or niece. According to the immigration officer's observations, the applicant was told that she had to be related by blood to the person, in this case her niece, in order to avoid the application of the Agreement. The concept of a *blood relationship* is not mentioned in the definition of "family member" in section 159.1 of the IRPR, and its list includes *niece*.

VII. Issue

[16] Did the immigration officer err in determining that the applicant's refugee claim was ineligible to be referred to the RPD on the basis that she was subject to the Agreement?

VIII. Standard of review

[17] An immigration officer's decision that a refugee claim is ineligible to be referred to the RPD because the applicant arrived in Canada via a third safe country is a question of mixed fact and law that must be reviewed on a reasonableness standard (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 51, [2008] 1 SCR 190 [*Dunsmuir*]; see, for example, *Mutende v Canada (Minister*

of Citizenship and Immigration), 2011 FC 1423, [2011] FCJ No 1732). The Court must limit its intervention to situations where the immigration officer's decision does not fall within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir*, above, at para 47).

IX. Analysis

[18] For the following reasons, this Court finds that the immigration officer did not err in applying the Agreement to the applicant's refugee claim. However, before analyzing the claim in this case, it would be appropriate to present, as the respondent's memorandum does, an overview of the relevant statutory framework. Some provisions are quoted in whole or in part in the reasons for ease of reference, but all the pertinent statutory provisions are reproduced in the Appendix to these reasons.

[19] Pursuant to paragraph 101(1)(*e*) of the IRPA, a refugee claim is ineligible to be referred to the RPD if the claimant came "directly or indirectly to Canada from a country designated by the regulations, other than a country of their nationality or their former habitual residence". Pursuant to paragraph 102(1)(*c*) of the IRPA, "the circumstances and criteria for the application of paragraph 101(1)(*e*)" are defined by regulation.

[20] It is pursuant to that paragraph that sections 159.1 to 159.7 of the IRPR were taken to frame the claims under paragraph 101(1)(*e*) of the IRPA. Section 159.3 of the IRPR explicitly designates the United States as a safe country for the purposes of the Agreement.

[21] As stated by the Canada Border Services Agency, this Agreement was entered into by the Canadian and American governments to better manage the flow of refugee claimants at the shared land border of these two countries. Under the Agreement, persons seeking refugee protection must make a claim in the first safe country they arrive in (Canada or United States) unless they qualify for an exception. In this case, the applicant arrived in the United States before transiting to Canada, and that is why the government is requiring that she return to the United States.

[22] Section 159.5 of the IRPR sets out the exceptions that permit a refugee claimant to avoid the application of the Agreement including the exception at paragraph 159.5(*a*) of the IRPR pertaining to the presence in Canada of a family member of the claimant who is a Canadian citizen. This is the exception the applicant herein is relying on because her brother-in-law's daughter, a Canadian citizen, is in Canada. The definition of "family member"—taken almost verbatim from the Agreement—is at section 159.1 of the IRPR:

Immigration and Refugee Protection Regulations, SOR/2002-227	*Règlement sur l'immigration et la protection des réfugiés*, DORS/2002-227
PART 8 **REFUGEE CLASSES**	**PARTIE 8** **CATÉGORIES DE RÉFUGIÉS**
Division 3 **Determination of Eligibility of Claim**	**Section 3** **Examen de la recevabilité**
…	[…]

Definitions	Définitions
159.1 The following definitions apply in this section and sections 159.2 to 159.7.	**159.1** Les définitions qui suivent s'appliquent au présent article et aux articles 159.2 à 159.7
…	[...]
"family member", in respect of a claimant, means their spouse or common-law partner, their legal guardian, and any of the following persons, namely, their child, father, mother, brother, sister, grandfather, grandmother, grandchild, uncle, aunt, nephew or niece.	« membre de la famille » À l'égard du demandeur, son époux ou conjoint de fait, son tuteur légal, ou l'une ou l'autre des personnes suivantes: son enfant, son père, sa mère, son frère, sa sœur, son grand-père, sa grand-mère, son petit-fils, sa petite-fille, son oncle, sa tante, son neveu et sa nièce.
[My emphasis.]	[Non souligné dans l'original.]

[23] Accordingly, the applicant submits that she should have been able to file her refugee claim in Canada because the presence in Canada of her Canadian niece relieves her of the obligation to return to the United States. For his part, the respondent states that the applicant did not mention the existence of this niece at the interview on June 12, 2013. This statement is true because, according to the immigration officer's observations, when asked whether she had any [TRANSLATION] "Nieces" in Canada, the applicant answered [TRANSLATION] "No". The applicant, in turn, submits that she was misled by the question that was put to her. The immigration officer allegedly told her that she must be related by blood to any "family member" she was relying on for the purposes of an exception to the Agreement. In his observations, the immigration officer noted the following: [TRANSLATION] "Family members listed above must be related by blood".

[24] Had it not been for this statement by the immigration officer, the decision that the refugee claim was ineligible to be referred to the RPD would have been undeniably reasonable because the applicant answered in the negative as to whether she had a Canadian niece living in Canada. Indeed, since the validity must be assessed based on the evidence that was before the decision-maker at the time the decision was made, this Court on judicial review cannot rely on fresh evidence, i.e. the existence of an alleged niece, to invalidate the impugned decision. The immigration officer emphasized in his reasoning that the applicant must be related by blood to the said niece, and this reality requires a more in-depth review by the Court.

[25] Therefore, the question becomes whether the immigration officer erred by requiring that the applicant be related by blood. Having regard to the meaning that must be given to the words *uncle*, *aunt*, *nephew* and *niece* in section 159.1 of the IRPR, I conclude that the answer is no.

[26] Based on their narrowest sense, the words *nephew* and *niece* refer to the children of a person's brothers and sisters, in the same way that the words *uncle* and *aunt* refer to the brothers and sisters of a person's parents. Out of habit or convenience, we expand the scope of these words to include the persons who occupy the same positions in the family through marriage. An aunt's spouse becomes an uncle, an uncle's spouse becomes an aunt, and the children of a person's brothers- and sisters-in-law become, by extension, that person's nieces and nephews.

[27] Although these shortcuts are useful on a day-to-day basis to simplify a family structure, they must not be transposed into the legal context, primarily because of the vagueness that surrounds them. For example, when does an "aunt by marriage" become her niece's "aunt"? Is it when she marries the uncle of the said niece, when she becomes the uncle's common-law partner

or when they begin dating? It is one thing to answer this question on a personal level when a new spouse arrives in a family, in order to define everyone's roles—the answer can certainly vary from one family to the next—but it is another thing to answer it in a legal context where stability and predictability must prevail to ensure that everyone's claim is treated equally.

[28] Federal statutes that refer to *nephew* or *niece* are rare. One of them is the *Income Tax Act*, RSC, 1985, c 1 (5th Supp.), whose paragraph 252(2)(*g*) provides that in this Act words referring to "a niece or nephew of a taxpayer include the niece or nephew, as the case may be, of the taxpayer's spouse or common-law partner". In addition, the Act defines "common-law partner" in such a way that it is easy to determine, in each of the cases, the persons who may be considered a *nephew* or *niece*. In this case, although the IRPA and the IRPR define *common-law partner*, they do not contain a definition of *niece* or *nephew*. Moreover, section 2 of the IRPR provides that a "relative" of a claimant is a "person who is related to another person by blood or adoption" while paragraph 83(5)(*a*) expands the meaning of "related" to persons related to another person by marriage or common-law partnership.

[29] The Court can only find that, if Parliament had intended to include family members related by marriage, that is, family members to whom a claimant is not related by blood, why were nephews, nieces, uncles and aunts by marriage included but not brothers-in-law, sisters-in-law, fathers-in-law or mothers-in-law? The list in the definition of "family member" in section 159.1 appears to include persons who are directly connected to the claimant. Therefore, I cannot give a broad meaning to *nephew* or *niece* because, in the absence of a more specific provision, anyone could argue that they have a spouse (not necessarily a common-law partner) who has a Canadian niece or nephew in Canada, which would automatically make that person

the claimant's niece or nephew, and as a result, the claimant could benefit from an exception to the Agreement.

[30] Moreover, the IRPR define a common-law partner as "in relation to another person, an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year". This definition applies to section 159.1 of the IRPR and, therefore, a claimant could not benefit from an exception to the Agreement based on the fact that the claimant has had a Canadian partner in Canada for the last three months. Then should a claimant be entitled to benefit from the same exception on the basis that he or she has a Canadian niece or nephew in Canada in the person of the niece or nephew of the claimant's partner of the last three months? The answer is clearly no. Without further clarification by Parliament, that is the type of absurdity that a broad interpretation of "nephew" and "niece" could lead to.

[31] Taking into consideration the foregoing, the overall purpose of the Agreement and the principle that we must avoid endorsing country-shopping for refugee claims, the interpretation of "nephew" and "niece" should be limited, for the application of the IRPR and the IRPA, to the children of a claimant's brothers and sisters. Consequently, I find that it was reasonable for the immigration officer to require that the applicant be related by blood to the potential person to justify exempting her from the application of the Agreement (with the exception, it goes without saying, of her spouse or common-law partner and her legal guardian).

[32] Therefore, in the circumstances in which it was made and given the information available at that time, the immigration officer's decision that the refugee claim was ineligible to be

referred to the RPD was reasonable. Indeed, the applicant did not satisfy any of the exceptions in sections 159.1 to 159.7 of the IRPR to be exempted from the application of the Agreement.

[33] Since the refugee claim was ineligible to be referred to the RPD and the applicant was in Canada without status and without a visa, this Court must conclude that the removal order against the applicant under section 44 of the IRPA was reasonable.

[34] Last, with respect to the applicant's arguments based on the best interests of the children, the Canadian Charter and Canada's international obligations under various treaties that Canada is a party to, the Court points out to the applicant, as the respondent so aptly noted, that she was not returned to the DRC, but to the United States, where she will be able to make a refugee claim safely. In addition, the applicant's children are in Canada because she consented to that. She had the option of returning to the United States with her children, but she preferred that they stay here. The applicant cannot therefore argue that Canada is infringing the family unit principle or that she and her children are at risk of violence or discrimination in the DRC because this is not the case.

[35] The parties were invited to submit a question for certification, but none was proposed.

ORDER

THE COURT ORDERS that the application for judicial review is dismissed. No question is certified.

"Simon Noël"

_____

Judge

Certified true translation
Mary Jo Egan, LLB

APPENDIX 1 – RELEVANT STATUTORY PROVISIONS

Immigration and Refugee Protection Act, SC 2001, c 27	*Loi sur l'immigration et la protection des réfugiés*, LC 2001, ch 27
PART 1 IMMIGRATION TO CANADA	**PARTIE 1 IMMIGRATION AU CANADA**
Division 3 Entering and Remaining in Canada	**Section 3 Entrée et séjour au Canada**
Entering and Remaining	***Entrée et séjour***
…	[…]
Obligation on entry	*Obligation à l'entrée au Canada*
20. (1) Every foreign national, other than a foreign national referred to in section 19, who seeks to enter or remain in Canada must establish,	**20.** (1) L'étranger non visé à l'article 19 qui cherche à entrer au Canada ou à y séjourner est tenu de prouver:
(a) to become a permanent resident, that they hold the visa or other document required under the regulations and have come to Canada in order to establish permanent residence; and	a) pour devenir un résident permanent, qu'il détient les visa ou autres documents réglementaires et vient s'y établir en permanence;
(b) to become a temporary resident, that they hold the visa or other document required under the regulations and will leave Canada by the end of the period authorized for their stay.	b) pour devenir un résident temporaire, qu'il détient les visa ou autres documents requis par règlement et aura quitté le Canada à la fin de la période de séjour autorisée.
…	[…]

Division 4

Inadmissibility

Non-compliance with Act

41. A person is inadmissible for failing to comply with this Act

(a) in the case of a foreign national, through an act or omission which contravenes, directly or indirectly, a provision of this Act; and

(b) in the case of a permanent resident, through failing to comply with subsection 27(2) or section 28.

…

Section 4

Interdictions de territoire

Manquement à la loi

41. S'agissant de l'étranger, emportent interdiction de territoire pour manquement à la présente loi tout fait — acte ou omission — commis directement ou indirectement en contravention avec la présente loi et, s'agissant du résident permanent, le manquement à l'obligation de résidence et aux conditions imposées.

[…]

Division 5

Loss of Status and Removal

Report on Inadmissibility

Preparation of report

44. (1) An officer who is of the opinion that a permanent resident or a foreign national who is in Canada is inadmissible may prepare a report setting out the relevant facts, which report shall be transmitted to the Minister.

Referral or removal order

Section 5

Perte de statut et renvoi

Constat de l'interdiction de territoire

Rapport d'interdiction de territoire

44. (1) S'il estime que le résident permanent ou l'étranger qui se trouve au Canada est interdit de territoire, l'agent peut établir un rapport circonstancié, qu'il transmet au ministre.

Suivi

(2) If the Minister is of the opinion that the report is well-founded, the Minister may refer the report to the Immigration Division for an admissibility hearing, except in the case of a permanent resident who is inadmissible solely on the grounds that they have failed to comply with the residency obligation under section 28 and except, in the circumstances prescribed by the regulations, in the case of a foreign national. In those cases, the Minister may make a removal order.

(2) S'il estime le rapport bien fondé, le ministre peut déférer l'affaire à la Section de l'immigration pour enquête, sauf s'il s'agit d'un résident permanent interdit de territoire pour le seul motif qu'il n'a pas respecté l'obligation de résidence ou, dans les circonstances visées par les règlements, d'un étranger; il peut alors prendre une mesure de renvoi.

…

[…]

PART 2

REFUGEE PROTECTION

PARTIE 2

PROTECTION DES RÉFUGIÉS

Division 2

Convention Refugees and Persons in Need of Protection

Examination of Eligibility to Refer Claim

Section 2

Réfugiés et personnes à protéger

Examen de la recevabilité par l'agent

…

[…]

Ineligibility

101. (1) A claim is ineligible to be referred to the Refugee Protection Division if

Irrecevabilité

101. (1) La demande est irrecevable dans les cas suivants:

…

[…]

(e) the claimant came directly or indirectly to Canada from a country designated by the regulations, other than a country of their nationality or their former habitual residence; or

…

Regulations

102. (1) The regulations may govern matters relating to the application of sections 100 and 101, may, for the purposes of this Act, define the terms used in those sections and, for the purpose of sharing responsibility with governments of foreign states for the consideration of refugee claims, may include provisions

(a) designating countries that comply with Article 33 of the Refugee Convention and Article 3 of the Convention Against Torture;

(b) making a list of those countries and amending it as necessary; and

(c) respecting the circumstances and criteria for the application of paragraph 101(1)(*e*).

…

e) arrivée, directement ou indirectement, d'un pays désigné par règlement autre que celui dont il a la nationalité ou dans lequel il avait sa résidence habituelle;

[…]

Règlements

102. (1) Les règlements régissent l'application des articles 100 et 101, définissent, pour l'application de la présente loi, les termes qui y sont employés et, en vue du partage avec d'autres pays de la responsabilité de l'examen des demandes d'asile, prévoient notamment:

a) la désignation des pays qui se conforment à l'article 33 de la Convention sur les réfugiés et à l'article 3 de la Convention contre la torture;

b) l'établissement de la liste de ces pays, laquelle est renouvelée en tant que de besoin;

c) les cas et les critères d'application de l'alinéa 101(1)e).

[…]

Immigration and Refugee Protection Regulations, SOR/2002-227

PART 2
GENERAL REQUIREMENTS

Division 1

Documents Required Before Entry

Permanent resident

6. A foreign national may not enter Canada to remain on a permanent basis without first obtaining a permanent resident visa.

PART 8
REFUGEE CLASSES

Division 3
Determination of Eligibility of Claim

…

Definitions

159.1 The following definitions apply in this section and sections 159.2 to 159.7.

…

"family member", in respect of a claimant, means their spouse or common-law partner, their legal guardian, and any of the following persons, namely,

Règlement sur l'immigration et la protection des réfugiés, DORS/2002-227

PARTIE 2
RÈGLES D'APPLICATION GÉNÉRALE

Section 1

Formalités préalables à l'entrée

Résident permanent

6. L'étranger ne peut entrer au Canada pour s'y établir en permanence que s'il a préalablement obtenu un visa de résident permanent.

PARTIE 8
CATÉGORIES DE RÉFUGIÉS

Section 3
Examen de la recevabilité

[…]

Définitions

159.1 Les définitions qui suivent s'appliquent au présent article et aux articles 159.2 à 159.7.

[...]

« membre de la famille » À l'égard du demandeur, son époux ou conjoint de fait, son tuteur légal, ou l'une ou l'autre des personnes suivantes: son enfant, son père, sa mère, son

their child, father, mother, brother, sister, grandfather, grandmother, grandchild, uncle, aunt, nephew or niece.

…

Designation — United States

159.3 The United States is designated under paragraph 102(1)(a) of the Act as a country that complies with Article 33 of the Refugee Convention and Article 3 of the Convention Against Torture, and is a designated country for the purpose of the application of paragraph 101(1)(e) of the Act.

…

Non-application — claimants at land ports of entry

159.5 Paragraph 101(1)(e) of the Act does not apply if a claimant who seeks to enter Canada at a location other than one identified in paragraphs 159.4(1)(a) to (c) establishes, in accordance with subsection 100(4) of the Act, that

(a) a family member of the claimant is in Canada and is a Canadian citizen;

(b) a family member of the claimant is in Canada and is

(i) a protected person within

frère, sa sœur, son grand-père, sa grand-mère, son petit-fils, sa petite-fille, son oncle, sa tante, son neveu et sa nièce.

[…]

Désignation — États-Unis

159.3 Les États-Unis sont un pays désigné au titre de l'alinéa 102(1)a) de la Loi à titre de pays qui se conforme à l'article 33 de la Convention sur les réfugiés et à l'article 3 de la Convention contre la torture et sont un pays désigné pour l'application de l'alinéa 101(1)e) de la Loi.

[…]

Non-application — demandeurs aux points d'entrée par route

159.5 L'alinéa 101(1)e) de la Loi ne s'applique pas si le demandeur qui cherche à entrer au Canada à un endroit autre que l'un de ceux visés aux alinéas 159.4(1)a) à c) démontre, conformément au paragraphe 100(4) de la Loi, qu'il se trouve dans l'une ou l'autre des situations suivantes:

a) un membre de sa famille qui est un citoyen canadien est au Canada;

b) un membre de sa famille est au Canada et est, selon le cas:

(i) une personne protégée au

the meaning of subsection 95(2) of the Act,	sens du paragraphe 95(2) de la Loi,
(ii) a permanent resident under the Act, or	(ii) un résident permanent sous le régime de la Loi,
(iii) a person in favour of whom a removal order has been stayed in accordance with section 233;	(iii) une personne à l'égard de laquelle la décision du ministre emporte sursis de la mesure de renvoi la visant conformément à l'article 233;
(c) a family member of the claimant who has attained the age of 18 years is in Canada and has made a claim for refugee protection that has been referred to the Board for determination, unless	c) un membre de sa famille âgé d'au moins dix-huit ans est au Canada et a fait une demande d'asile qui a été déférée à la Commission sauf si, selon le cas:
(i) the claim has been withdrawn by the family member,	(i) celui-ci a retiré sa demande,
(ii) the claim has been abandonned by the family member,	(ii) celui-ci s'est désisté de sa demande,
(iii) the claim has been rejected, or	(iii) sa demande a été rejetée,
(iv) any pending proceedings or proceedings respecting the claim have been terminated under subsection 104(2) of the Act or any decision respecting the claim has been nullified under that subsection;	(iv) il a été mis fin à l'affaire en cours ou la décision a été annulée aux termes du paragraphe 104(2) de la Loi;

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4184-13
STYLE OF CAUSE:	BIOSA v MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	MAY 1, 2014
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DATED:	MAY 6, 2014

APPEARANCES:

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