LARLEE ROSENBERG
BARRISTERS & SOLICITORS

4 November 2017 File: OFF0109

Standing Committee on Citizenship and Immigration
House of Commons
Ottawa, ON
Attention: Erica Pereira, Clerk of Committee

Dear Sirs:

**Re: Submission on the Medical Inadmissibility of persons with Down's Syndrome to the Standing Committee on Citizenship and Immigration**

I am an immigration lawyer in Vancouver, BC and have been so engaged since 1989 on a full-time basis. Over the course of my career I have been consulted on a number of medically inadmissibility cases.

Attached please find written submissions, tendered to the Canadian Visa Office in Shanghai, China on 1 August 2017 in response to a Procedural Fairness Letter, also attached. The attached relates to a 9-year-old boy with Down's Syndrome (the "Applicant") and is filed for illustrative purposes only. I have the consent of the Applicant's parents to release this redacted version of the visa office submission to the Committee.

In response to questions from the Committee, officials from IRCC may respond by describing the procedural fairness process whereby applicants are permitted an opportunity to respond to a medical admissibility determination by providing additional medical and financial information.

The attached submission is illustrative of one such response. By providing a copy of this visa office submission, and a copy of the Procedural Fairness Letter from IRCC, it is hoped that the Committee will have a better understanding of the standard and process that is set by IRCC with respect to medical inadmissibility cases involving DS applicants. I submit that the standard is unreasonable and that the process is unfair.

I submit that this process is anything but fair as it discriminates against applicants with disabilities, especially those with Down's Syndrome.

My position, and the position of most if not all of my colleagues, is that rendering DS applicants inadmissible is discriminatory and lacks justification in most if not all situations.

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DS applicants would normally only be eligible to be admitted to Canada as family class members as they would be unlikely to qualify under other categories. As family class members they are usually supported by loving families who are committed to their care and support. To suggest that DS applicants would be abandoned by family members once in Canada with the full burden of care falling on the Canadian government demeans the bonds that exist within families with a DS family member.

I submit that the Committee should recommend to the Minister that DS applicants no longer be deemed medically inadmissible by virtue of a DS diagnosis.

The attached submission to a visa office is in response to what IRCC terms a Procedural Fairness Letter and is provided to you as an illustration only. I feel that the best way for me to highlight the position advanced above is to offer to the Committee a real-life case so that the Committee can see the hoops that families with DS members must go through to be permitted to come to Canada and the standard that is expected for IRCC to be satisfied that there will likely be no excessive demand. The standard is one that most people cannot reach.

The Applicant described in the attached submission is in the borderline range of IQ and is not to be considered intellectually disable. He is loved by his family, goes to school and is learning English as a second language in China. He is currently in a private school in China and his parents have registered him in a private school in Canada. Because of the medical disability determination, he has now been separated for two years from his family in Canada.

I fully expect the Applicant referred to in the attached submission to be successful and if he is not, I am confident that a Federal Court judge would agree that the medical assessment was in error, there is no excessive demand existent or, if there is excessive demand that the family has made sufficient provision to ameliorate any excessive demand.

This result is rather obvious to me. I find it exceedingly frustrating that IRCC takes the position that it does given the current jurisprudence of the Federal Court and the times in which we live. People with DS are now welcomed into our wider community and are active, contributing participants of our society. The current position of IRCC in respect to DS people is anachronistic. Canadians have moved forward, IRCC has not.

This process of hiring lawyers, hiring experts, undergoing not months but years of repeated medical testing and years of delay is exceedingly unfair and hurtful to the Applicant and his family.

The attached case is outside the norm and requires some explanation. The parents of the Applicant are British Columbia Provincial Nominee applicants under the BC Entrepreneur category. As such, they are required to come to BC and operate their qualified business for up to two years before a nomination certificate is issued and they are eligible to apply for a permanent resident visa from IRCC.

The family of the Applicant applied to IRCC for the appropriate temporary visas and permits in March 2015. The parents and their younger child were issued visas to allow them to live, work

and study in BC in November 2015. They arrived later the same month. The Applicant, 6 years old at the time, was not issued a visa and was not permitted entry to Canada at that time. He was directed to go for more medical tests and to provide further information.

In February 2017, almost two years after the family submitted their applications, the Applicant, was issued a Procedural Fairness Letter, advising that his application would likely be refused for excessive demand. He was offered an opportunity to respond to this letter. The response to the fairness letter was filed on 1 August and is attached.

Added to the pain of possible refusal is the delay and uncertainty in the process. Since the filing of our response on 1 August 2017 we received no communication until late October 2017 after writing for a status update. The Visa Office immediately replied by stating they had no record of our submission despite us filing it directly by email and by Webform, as instructed. In both cases we received automated confirmation of receipt from the visa office and IRCC of the August 1st submissions shortly after filing those submissions. We re-filed our submission in October 2017 and the Visa office acknowledge receipt. We received no explanation or apology for the loss of our August 1st submissions.

IRCC is not accountable for the delays and resulting pain and frustration caused to families.

The Applicant has been apart from his family, residing with his grandparents, since November 2015, now two years. His parents and younger brother have now been issued Nomination Certificates under BC PNP program. They will all now be required to complete new immigration medicals in support of their PR applications. The Applicant will again be thrust into the immigration medical process and may very likely be found, again, to be medically inadmissible.

We submit that this is an untenable situation, lacking any justification. We ask the Committee to recommend to the Minister that government policy be changed to remove DS as a ground for medical inadmissibility.

Should the Committee have any questions or require any supporting information, please do not hesitate to contact me.

Thank you for your consideration of the above submissions.

Yours truly,

Peter D. Larlee
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