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Havyarimana v Canada (Citizenship and Immigration), 2025 CanLII 95703 (CA IRB)

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Reasons and Decision – Motifs et décision

Sponsorship Appeal
[Translation of original version]

Appellant(s)	Joséphine HAVYARIMANA	**Appelant(e)(s)**
and		**et**
Respondent	The Minister of Citizenship and Immigration	**Intimé(e)**
Date(s) of Hearing	February 3, 2025	**Date(s) de l'audience**
Place of Hearing	Montréal, Quebec (virtual hearing)	**Lieu de l'audience**
Date of Decision	May 30, 2025	**Date de la décision**
Panel	Roxane Stanners	**Tribunal**
Counsel for the Appellant(s)	N/A	**Conseil de l'appelant(e) / des appelant(e)s**
Designated Representative(s)	N/A	**Représentant(e)(s) désigné(e)(s)**
Counsel for the Minister	Guylaine Fortin	**Conseil du (de la) ministre**

REASONS FOR DECISION

OVERVIEW

[1] On December 19, 2022, **Joséphine HAVYARIMANA** (the appellant) filed a sponsorship application[1] for **Latif Carlos BUKEYENEZA**, **Nikita MUNEZERO**, **Erlinka MUGISHA** and **Leila IGIRANEZA** (the applicants).

[2] The appellant submits that the applicants are the children of her late sister, A.N.

[3] On August 15, 2024, an immigration officer refused the application[2] because he was not satisfied that the applicants were orphaned children when the sponsorship application was filed, particularly because the death certificates issued by the Rumonge Hospital to establish the deaths of the applicants' parents had been altered. Furthermore, the other documents submitted to establish that the applicants are orphans are insufficient to offset the documents' lack of authenticity.

[4] The appellant is appealing the refusal of the application. She is not represented.

[5] The issue is:

- Did the appellant demonstrate, on a balance of probabilities, that the applicants are members of the family class as defined in subparagraph 117(1)(f)(ii) of the *Immigration and Refugee Protection Regulations*, specifically, that they were her sister's orphaned children when the application was filed?

[6] The panel heard the testimonies of the appellant, the applicant Erlinka Mugisha and A.S., the appellant's cousin who testified from his home in Belgium.

[7] The panel takes into account the testimonies, the appeal records, exhibits A-1 to A-2 filed by the appellant, exhibits R-1 to R-3 filed by the Minister and the parties' submissions.

[8] Counsel for the Minister is asking the panel to dismiss the appeal.

[9] For the reasons set out, the panel concludes that the appellant has failed to demonstrate, on a balance of probabilities, that the applicants are members of the family class. The panel is of the view

[1] Appeal record, at page 26.
[2] Appeal record, at page 3.

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that the alterations and lack of authenticity in the documentation and evidence relating to the death of the applicants' parents are not offset by the other evidence submitted for this issue.

[10] The panel must therefore dismiss the appeal.

BACKGROUND

[11] The appellant comes from a family of seven children.

[12] She testified that her sister A.N. died in Burundi on February 20, 2021. When A.N. died, she left behind six children, including the four applicants and two younger ones.

[13] R.N., the father of A.N.'s children, died on February 10, 2020. The appellant learned that R.N. died at home of unknown causes. The family believed that he was ill with the flu, but the cause of his death remains unknown. It appears that after her husband died, A.N. remained bedridden, suffering from headaches. Her oldest daughter testified that she saw her mother become weaker shortly before she was taken to the hospital, where she died of unknown causes.

[14] After A.N.'s death, a paternal aunt of A.N. and R.N.'s children looked after the two youngest children, while the appellant's brother, E., looked after the applicants.

[15] The appellant was unable to attend her sister A.N.'s funeral because of restrictions related to the COVID-19 pandemic.

[16] L., another brother of the appellant, died in Burundi in April 2022. He frequently communicated with the appellant regarding the applicants, who had been looked after by E., their younger brother. L. had the financial means to help E. take care of the applicants.

[17] The appellant attended her brother L.'s funeral in Burundi in April 2022. She only had two weeks off. She wanted to see A.N.'s children during that trip, but E. fell ill the day after L.'s funeral and was hospitalized for several weeks. The appellant tried to extend her stay, but the airline could not accommodate her. Therefore, she could not see the applicants on that trip.

[18] Upon her return to Canada, the appellant learned that E. was doing better and decided to return to Burundi to see her brother and her late sister's children. During this trip, the idea of sponsorship came up.

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[19] The appellant took the applicants to visit their parents' graves. She discussed the plan to sponsor the applicants with E., as well as with the maternal aunt, who had been looking after A.N.'s two youngest children. Everyone agreed with the initiative to sponsor the applicants.

[20] The appellant returned to Canada and began the sponsorship process.

[21] She asked her brother E. to send her the necessary documents to complete the sponsorship applications. E. obtained most of the documents through the applicants' paternal uncle. The appellant did not know how he obtained the documents that she filed into evidence, including the photographs taken at the funerals, the photographs of the graves, the death extracts and the birth certificates.

[22] As stated above, the officer who refused the application concluded that some documents filed to demonstrate the deaths of the applicants' parents had been altered.

[23] Counsel for the Minister questioned the appellant about all of the documents. The panel notes the following.

First death certificate for R.N. from the Rumonge Hospital[3] issued on February 10, 2021

[24] As stated by the immigration officer, on its face, the hospital seal appears to have been digitally modified: an "R" added to the word "Rumonge" does not match the rest of the seal. When the appellant was asked about the document's appearance, she also noted that the document appears to have been altered.

[25] Following the officer's concern about the authenticity of R.N.'s death certificate, the appellant asked E. to obtain another death certificate. She stated that the first certificate did not have a doctor's signature. However, the panel notes that the first certificate[4] is signed, and this was done on February 10, 2021.

Second death certificate for R.N. from the Rumonge Hospital[5] issued on February 10, 2021

[26] This document states that it was issued on the same day. The certificate form is identical and the information is the same, but the doctor who signed this certificate printed his name.

[3] L.I.'s appeal record, at page 50.
[4] L.I.'s appeal record, at page 50.
[5] Exhibit A-1, Document 41.

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[27] The appellant explained that the first certificate submitted was issued by the hospital on a provisional basis so that the family could begin the funeral arrangements and that, subsequently, the hospital issued the second certificate. The appellant asked the panel not to take into account the first certificate and to rely on the second one.

First death certificate for A.N. from the Rumonge Hospital[6] issued on February 10, 2021

[28] On this certificate, like on R.N.'s first death certificate, the hospital seal appears to have been digitally modified: an "R" added to the word "Rumonge" does not match the rest of the seal. The appellant acknowledged this and filed a second certificate.

Second death certificate for A.N. from the Rumonge Hospital[7] issued on February 20, 2021

[29] Like on R.N.'s second death certificate, that of A.N.'s states that it was issued on the same day as the first one, February 20, 2021. The certificate form is identical and the information is the same, but the doctor who signed this certificate printed his name.

[30] Like in the case of R.N.'s death certificate, the appellant explained that the first certificate submitted was issued by the hospital so that the family could begin the funeral arrangements and that, subsequently, the hospital issued the second certificate. The appellant asked the panel not to take into account the first certificate and to rely on the second one.

Birth certificate extracts for Erlinka Mugisha,[8] Nikita Munezero[9] and Latif Carlos Bukeyeneza[10]

[31] In these documents, the use of different fonts and the Ministry's stamp placed in the same location, namely on the registrar's signature, raise significant doubts about the authenticity of these documents.

[32] The appellant stated that there may be several explanations for what appears to be alterations to a form. She stated that there are often power outages and that it is therefore necessary to complete a

[6] L.I.'s appeal record, at page 53.
[7] Exhibit A-1, Document 31.
[8] Erlinka Mugisha's appeal record, at page 80.
[9] Nikita Munezero's appeal record, at page 76.
[10] Latif Carlos Bukeyeneza's appeal record, at page 68.

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form with a typewriter or by hand. Regarding the placement of stamps to formalize a document, she explained that it may be a coincidence.

The death announcements

[33] The death announcements,[11] which were allegedly sent shortly after the deaths, contain errors as to the days of the week of the deaths. Specifically, in R.N.'s death announcement,[12] stamped [translation] "Paid cash" by a radio station on February 11, 2021, it states that R.N.'s death occurred [translation] "this Saturday, 10/02/2021," although February 10, 2021, was a Wednesday. The announcement also states that the burial was scheduled for [translation] "Thursday, 14/02/2021," although February 14, 2021, was a Sunday. This raises doubts about when this document was prepared, or even its authenticity.

[34] Another death announcement for R.N.[13] was filed at the time of the sponsorship application. This announcement states that R.N.'s death occurred on [translation] "Tuesday, 10/02/2021" and that the burial was scheduled for Saturday, February 14, 2021. Again, the days of the week do not match the dates stated on the announcement. This raises doubts about the announcement's authenticity.

[35] The appellant stated that these may merely be errors or that the time difference could explain the error. The panel does not accept this last explanation. However, the panel accepts that errors can always occur in the preparation of announcements, especially for death notices. That being said, in this case, there are different errors in two different announcements. This casts doubts on the announcements' authenticity.

The photographs of the funerals

[36] The appellant filed into evidence two photographs[14] showing people gathered around a coffin.

[37] The appellant did not know who took these photographs. They were sent to her by her brother E., who obtained them from R.N.'s brother. The appellant recognized one or two people in them. They do not depict the applicants.

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[11] Exhibit A-1, Documents 32 and 42; Erlinka Mugisha's appeal record, at pages 64 and 67.
[12] Exhibit A-1, Document 42.
[13] Erlinka Mugisha's appeal record, at page 64.
[14] L.I.'s appeal record, at pages 43 and 44.

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[38] The panel notes, on the face of the photographs, that they have been altered. Specifically, on each one, there is a white cross with an inscription superimposed on the coffin. The inscriptions are as follows: [translation] "Born 04 04 1970 NIYONDIKO Rémy Died 10 02 2021" and [translation] "Born on 01 01 1970 NDAYISHIMIYE Agnès Died on 20 02 2021."

[39] Given that the appellant cannot confirm who took the photographs or when they were taken, and considering the obvious alterations in the photographs, the panel gives them no weight.

The photographs of the graves

[40] The appellant filed into evidence two photographs[15] showing a cemetery scattered with white crosses in the background. In the foreground of each photograph, there is a white cross with essentially the same information as on the white crosses superimposed on the photographs of the coffins.

[41] Again, the appellant did not know who took the photographs or when they were taken. She stated that she visited her sister's and brother-in-law's graves with the applicants, but could not assert that the crosses in the photographs of the graves filed into evidence are those that she saw.

[42] The panel concludes that, on the face of the photographs, it is obvious that they are altered, particularly that the crosses were added. The crosses appear one-dimensional in relation to the photograph as a whole. In the absence of evidence to the contrary, including information about the origins of the photographs, the panel gives them no weight.

[43] The appellant filed other evidence in support of her application, including the minutes of the family meeting,[16] in which the uncles and aunts of the deceased's children agreed on the custody of the children of the deceased, A.N. and R.N., as well as evidence of money transfers that the appellant made to E. to provide for the applicants' care.[17]

[15] L.I.'s appeal record, at pages 45–46.
[16] L.I.'s appeal record, at page 47.
[17] L.I.'s appeal record, at pages 41–42.

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[44] The panel reviewed the letters from M., R.N.'s sister, who stated that after A.N. and R.N. died, she looked after their two youngest children, and the letter from the deceased's neighbours, who described the appellant's commitment to the orphans.

[45] The panel heard the oldest applicant's testimony. She testified in a very emotional way. She stated that she was present with her mother before she was taken to the hospital, where she died shortly after.

[46] The panel also heard the appellant's cousin's testimony. He lives in Belgium. He did not attend the funerals of the applicants' parents and has never met the applicants. At most, his testimony helped to confirm the appellant's statements.

ANALYSIS

[47] The burden of proof is on the appellant. She must demonstrate, on a balance of probabilities, that the applicants are orphaned children, specifically of her sister.

[48] The panel is of the opinion that the officer's significant doubts about the documents' authenticity have not been discounted.

[49] The appellant asked the panel not to take into account the first death certificates filed with the sponsorship application. The panel does not find her explanation credible that the hospital issued these certificates on a provisional basis. Moreover, considering the obvious alterations made to the first death certificates, the panel considers that it is important to analyze the documents' authenticity. This is particularly true in this case, where the appellant stated that she did not obtain the documents herself and that she relied on others.

[50] In addition to the doubts about the death certificates' authenticity, there are doubts about the altered photographs submitted into evidence. As stated above, the panel gives them no weight in its analysis of the issue. What is more, the panel draws a negative inference from the submission of altered photographs.

[51] The birth certificate extracts for Erlinka Mugisha, Nikita Munezero and Latif Carlos Bukeyeneza raise further issues. The use of different fonts in these documents, as well as the registrar's signature and the stamp superimposed in the same place on the documents even though

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it is supposed to be an official act, raises doubts about the official quality of the documents. The appellant's explanation that a typewriter must sometimes be used to complete the documents is merely speculative, and the panel cannot conclude that the identical placement of the registrar's signature on the stamp in all three cases is a coincidence. The panel is not satisfied as to the authenticity of these documents.

[52] Finally, the errors in the various death announcements also cast doubt on their authenticity. If these errors were the only ones, the panel could have concluded that it was human error. However, in all the circumstances of this case, where the authenticity of several of the documents relating to the parents' deaths is being questioned, the panel also doubts the death announcements.

[53] Considering the extent of the problems raised regarding the documents' authenticity, the panel finds that the other evidence is insufficient to offset the documents' lack of authenticity.

[54] The panel concludes that the appellant has failed to demonstrate that the applicants are her sister's orphaned children. They are therefore not members of the family class.

CONCLUSION

[55] For the reasons set out above, the panel concludes that the appellant has failed to demonstrate that the applicants are her sister's orphaned children. Specifically, the panel finds that the authenticity of several of the documents submitted in support of the application is challenged. The other evidence did not overcome the panel's doubts.

[56] Consequently, the applicants are not members of the family class.

[57] The panel cannot therefore take into account humanitarian and compassionate considerations.

[58] The appeal is dismissed.

NOTICE OF DECISION

The appeal is dismissed.

(Signed) Roxane Stanners

Roxane Stanners

May 30, 2025

Date

IRB translation
Original language: French

Judicial review – Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.

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