

Federal Court



Cour fédérale

**Date: 20151116**

**Docket: IMM-1294-15**

**Citation: 2015 FC 1274**

**Toronto, Ontario, November 16, 2015**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**VAN TRUYEN PHAM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] On the specific facts of this case, where the previous visa officer made a finding in law and fact, aside from the factual and legal issue that was in dispute on the previous judicial review, the Officer reconsidering the application cannot revisit legal and factual findings of the previous officer without providing the Applicant with notice and the opportunity to respond.

[2] Since no opportunity to respond was provided by the Officer, I find that the decision under review was made in breach of a duty of fairness owed to the Applicant.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the matter is sent back for redetermination by a different officer. No question for certification.

"Douglas R. Campbell"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1294-15

**STYLE OF CAUSE:** VAN TRUYEN PHAM v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 16, 2015

**JUDGMENT AND REASONS:** CAMPBELL J.

**DATED:** NOVEMBER 16, 2015

**APPEARANCES:**

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FOR THE APPLICANT

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FOR THE RESPONDENT

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