

Federal Court



Cour fédérale

Date: 20170426

Docket: T-1795-15

Citation: 2017 FC 399

Ottawa, Ontario, April 26, 2017

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Applicant

and

MENT ALLH MOHAM MAHROUS

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is the second of three decisions related to the citizenship applications of three members of the same family (mother, daughter, and son), which are all being released today. While each case is separate, the governing law is the same and need not be repeated in detail. The cases may be read together to better understand the Court's approach to decisions of a similar nature. The judicial reviews of the cases of Ms. Ashmawy (the mother) and of Ms.

Mahrous (the daughter) flowed from the decisions of the same Citizenship Judge. This judicial review concerns the decision of Ms. Mahrous [Decision].

II. Background

[2] Some of the principal factual differences between the cases of Ms. Ashmawy and Ms. Mahrous are that Ms. Mahrous applied for citizenship on April 30, 2009, having arrived in Canada on January 7, 2006 [Relevant Period], and she declared 1,189 days of physical presence in Canada. This left a margin of 94 days between the claimed presence in Canada and the minimum requirement. Any variance with the claimed presence is important because such a variance could put the Applicant outside the required period of residence.

[3] Ms. Mahrous claimed to have made one trip to Egypt during the Relevant Period. There was no evidence of when she left Canada and passport evidence covered less than two years of the Relevant Period.

As the Applicant's Record discloses, there were two trips to Egypt, not one. The Citizenship Judge never addressed this second trip. Nor did the Citizenship Judge address the existence of a Cairo address on the Respondent's Egyptian passport.

[4] This case also exhibited the same issue of the rental home on Hickling Crescent and a short-term rental in downtown Toronto. Ms. Mahrous rented another apartment under construction but lived in Harbour Square while also claiming to live at Hickling Crescent.

[5] This case also raised the issue of financial support and the absence of evidence of financial activity.

[6] The Citizenship Judge, using similar problematic phrasing as in the decision of Ms. Ashmawy, concluded that he did not “find solid elements to doubt the credibility of the applicant”.

[7] The format of the Decision was the same as that of her mother’s – a series of bullet points of issues or topics, some with conclusions and some without. Following the listing of issues or topics, the Citizenship Judge makes the conclusory finding on the residency requirement.

III. Analysis

[8] The issues are the same as in *Canada (Citizenship and Immigration) v Ashmawy*, 2017 FC 398 [*Ashmawy*]:

1. Did the Citizenship Judge err in law?
2. Was the Decision reasonable?
3. Should the material submitted by the Respondent in this judicial review which was not before the Citizenship Judge be struck?

[9] The legal principles and conclusions are the same.

[10] In addition to the general concerns raised in *Ashmawy*, this case highlights and repeats the same deficiencies. The Citizenship Judge failed to address all of the pertinent issues and, to the extent issues were addressed, the articulation was incomplete.

[11] To the extent that the Citizenship Judge relied on evidence heard in one of the other related cases, he failed to identify what evidence was transported into this case or, apparently, to put that evidence to the Respondent. The evidence of supposed financial support from the Respondent's father is but one of those examples of incorporation without reference.

[12] It is impossible for this Court to discern the line of reasoning which led to the Citizenship Judge's conclusions. If there were answers to the issues and topics raised, they are not set forth; therefore, this Court is unable to assess the reasonableness of the Citizenship Judge's decision.

IV. Conclusion

[13] For these reasons, this judicial review will be granted and the Decision quashed. For reasons previously given, no costs should be awarded.

JUDGMENT in T-1795-15

THIS COURT'S JUDGMENT is that the application for judicial review is granted, and the decision of the Citizenship Judge is quashed. No costs are awarded.

"Michael L. Phelan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1795-15

STYLE OF CAUSE: THE MINISTER OF CITIZENSHIP AND
IMMIGRATION v MENT ALLH MOHAM MAHROUS

PLACE OF HEARING: TORONTO, ONTARIO

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