

Federal Court



Cour fédérale

**Date: 20171206**

**Docket: T-721-17**

**Citation: 2017 FC 1110**

**Ottawa, Ontario, December 6, 2017**

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

**BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Applicant**

**and**

**OMID MEHDI MOHIT**

**Respondent**

**REASONS FOR JUDGMENT**

**(Delivered orally from the Bench in Toronto, Ontario on November 21, 2017)**

I. Overview

[1] The Applicant, the Minister of Citizenship and Immigration [Minister], seeks judicial review of the decision rendered by a Citizenship Judge [Judge] dated March 23<sup>rd</sup>, 2017, in which

the Judge approved Omid Mehdi Mohit's [Mr. Mohit] application for Canadian citizenship pursuant to paragraph 5(1)(c) of the *Citizenship Act* [Decision].

[2] In disposing of Mr. Mohit's application for citizenship, the Judge chose to apply the test set out by Associate Chief Justice Thurlow, as he then was, in *Re Papadogiorgakis*, [1978] 2 F.C. 208, 88 D.L.R. (3d) 243. This test required the Judge to consider whether Mr. Mohit had established residency in Canada, and had maintained that residency.

[3] The Minister acknowledges that Mr. Mohit established residency in Canada when he first arrived as a permanent resident in July 2010. However, the Minister contends that Mr. Mohit does not meet the second criteria; namely, he has not proven, on a balance of probabilities, that he has maintained his residency. Accordingly, the Minister contends the Judge made an unreasonable decision when he concluded otherwise.

[4] In support of his argument, the Minister cites from paragraph 23 of the Judge's Reasons and Decision, which read as follows:

Were the Applicant's absences from Canada "temporary" (as Thurlow A.C.J. stipulates)? Each was. The current state of affairs – the Applicant's ongoing employment with WHO Cairo following his MPH degree – has endured, despite the Applicant's best efforts (he claims) he find (sic) public health employment in Canada. Nevertheless, given the credible testimony and documentation of his attachment to Canada, there is little doubt that he returns here at every opportunity.

[5] The Minister contends that Mr. Mohit's employment with the World Health Organization in Cairo, Egypt, amongst other factors, demonstrates a lack of intention to maintain residence in Canada. As a result, the Decision is unreasonable.

[6] Alternatively, the Minister contends that only paragraph 23 addresses the criteria of maintained residency, while paragraphs 17 to 22 of the Judge's Reasons and Decision address the establishment of residency. The Minister asserts that such brief observations, particularly the two-word sentence "Each was.", are demonstrative of inadequate reasons that leave the court unable to assess the reasonability of the Judge's Decision.

## II. Standard of Review

[7] The parties agree that the standard of review is reasonableness, as set out in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 47 [*Dunsmuir*]. They also agree that the purported inadequacy of reasons is not a stand-alone basis for granting judicial review; acknowledging that the reasons must be read together with the evidence and the outcome in order to determine whether the result falls within a range of possible acceptable outcomes (*Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708 at para. 14 [*Newfoundland and Labrador Nurses*]).

III. Issues

[8] The issue is whether the Judge's Decision to approve Mr. Mohit's citizenship application was justified, transparent and intelligible, falling within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir* at para. 47).

IV. Analysis

[9] I agree that the Judge's analysis lacks thoroughness. Nevertheless, I conclude that the Reasons and Decision meet the standard of reasonableness. In reaching this conclusion, I have considered: the summary of the interview between the Judge and Mr. Mohit; the evidence and the factual summary provided by the Judge.

[10] I will briefly recite some of the facts before the Judge: Mr. Mohit's family, including his spouse and son, resides in Richmond Hill, Ontario, where they have lived since their arrival in Canada. Mr. Mohit has undertaken extensive renovations to the family home, which is owned by his spouse and him. Mr. Mohit has immersed himself in Canadian culture, namely by taking his son to hockey games, volunteering at his son's school, and travelling within Canada in an attempt to better know his adopted country. To enhance his job prospects in Canada, Mr. Mohit took a \$50,000.00 pay cut in order to attend university on a full-time basis at the University of Toronto. He is studying to improve his French-language skills. He has applied for work in Canada and has networked extensively to further enhance his job prospects in this country. He travels back and forth between his home in Richmond Hill and his work in Cairo as often as

possible, or, as the Judge states, “at every opportunity”. Mr. Mohit pays income tax in Canada, is actively engaged in his son’s schooling, and has provided numerous letters regarding his engagement in the community. Since completing his graduate studies at the University of Toronto, he has been in Canada for at least one week every two months.

[11] These facts support a finding that Mr. Mohit has maintained residence in Canada, despite his employment abroad.

[12] Under the circumstances, I am satisfied that the Judge’s decision meets the reasonableness standard as set out in *Dunsmuir*, and elaborated upon in *Newfoundland and Labrador Nurses*. The application for judicial review is dismissed without costs. No question is certified for consideration by the Federal Court of Appeal.

**JUDGMENT in T-721-17**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed without costs. No question is certified for consideration by the Federal Court of Appeal.

"B. Richard Bell"

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Judge

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

**DOCKET:** T-721-17

**STYLE OF CAUSE:** THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION v OMID MEHDI MOHIT

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 21, 2017

**REASONS FOR JUDGMENT:** BELL J.

**DATED:** DECEMBER 6, 2017

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