Federal Court  Cour fédérale

Date: 20180829

Docket: T-1880-17

Citation: 2018 FC 870

[OFFICIAL ENGLISH TRANSLATION]

Montréal, Quebec, August 29, 2018

PRESENT: The Honourable Madam Justice St-Louis

BETWEEN:

LOHIC ALAIN D'ALMEIDA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The applicant, Lohic Alain D'Almeida, is seeking judicial review of the decision rendered by a citizenship supervisor [Supervisor] on November 7, 2017, refusing to allow him to withdraw his application for Canadian citizenship and then refusing the said citizenship application.

[2] In his decision, the Supervisor first notes the prohibition set out in paragraph 22(1)(e.1) of the *Citizenship Act*, RSC 1985, c. C-29 [the Act] to the effect that a person shall not be granted citizenship if the person directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of the Act. The Supervisor notes that a procedural fairness letter was forwarded to Mr. D'Almeida on August 25, 2017, warning him that he might be prohibited from obtaining citizenship under aforementioned paragraph 22(1)(e.1) and that the information he had provided in response to the procedural fairness letter had been received and reviewed.

[3] The Supervisor goes on to confirm that he did not act beyond his jurisdiction in refusing to process Mr. D'Almeida's request to withdraw his citizenship application on the ground that he was currently under investigation for misrepresentation.

[4] Finally, the Supervisor concludes that Mr. D'Almeida misrepresented material circumstances within the meaning of paragraph 22(1)(e.1) of the Act. He refused Mr. D'Almeida's citizenship application and confirmed that any additional applications from Mr. D'Almeida would be refused for a period of five years, pursuant to paragraph 22(1)(e.2) of the Act.

[5] For the reasons set out below, the Court dismisses the application for judicial review.

II. Background

[6] Mr. D'Almeida, a French citizen, became a permanent resident of Canada on January 1, 1995. On June 1, 2014, he submitted an application for Canadian citizenship, his third since 2001. He included with his application the "physical presence calculator" form on which he declared that he had been absent from Canada for 194 days and present in Canada for 1266 days during the reference period between June 1, 2010, and June 1, 2014.

[7] On June 28, 2014, responding to a letter from Citizenship and Immigration Canada [CIC], Mr. D'Almeida forwarded photocopies of all pages from his French passport issued in March 2013. He indicated at that time that he was unable to provide a copy of a passport covering the entire reference period because his passports had been stolen in March 2013 while he was in Haiti.

[8] In August 2014, upon request from CIC, Mr. D'Almeida completed another form, the "residence questionnaire," on which he declared instead that he had been absent from Canada for 201 days and present for 1259 days during the aforementioned reference period.

[9] At the same time, on June 27, 2017, a port of entry immigration officer concluded that Mr. D'Almeida failed to meet the legal requirement for residence and had lost his permanent resident status in Canada. A removal order was issued against Mr. D'Almeida, who appealed this decision before the Immigration Appeal Division [IAD] (applicant's record, at pages 35-36).

[10] On July 5, 2017, a citizenship officer [Officer] met with Mr. D'Almeida and confronted him with information contradicting the declarations documented in his citizenship application

record. The Officer advised him that (1) the report from the Integrated Customs Enforcement System [ICES] of the Canada Border Services Agency showed that Mr. D'Almeida had entered Canada 16 times via the airports in Montréal and Toronto yet had failed to declare any absences on those dates; (2) Mr. D'Almeida's bank statement indicated a duty-free transaction in Montréal on a date when no absence had been declared; and (3) his passport stamps indicated an entry into the United States, an entry into Haiti and a departure from Haiti on dates for which no absences had been declared. According to the Officer's notes, Mr. D'Almeida had difficulty justifying these omissions at that time (certified tribunal record, page 96).

[11] On July 19, 2017, the Officer prepared a misrepresentation report and submitted it to the Supervisor.

[12] On August 25, 2017, the Supervisor sent a procedural fairness letter to Mr. D'Almeida. In it, the Supervisor (1) cited the prohibition described in paragraph 22(1)(e.1) of the Act; (2) indicated that he had received the report prepared by the Officer and confirmed the evidence contradicting the information that Mr. D'Almeida had provided on his citizenship application; (3) advised Mr. D'Almeida that he could be refused Canadian citizenship on grounds of misrepresentation; (4) stated his jurisdiction; and (5) provided Mr. D'Almeida an opportunity to respond within 30 days to the allegation of misrepresentation either in writing or in person by requesting a hearing.

[13] Also on August 25, 2017, a second procedural fairness letter was sent to Mr. D'Almeida, by the Officer, relating primarily to the impact of the removal order issued against him on June 27, 2017.

[14] On August 31, 2017, Mr. D'Almeida responded to both procedural fairness letters. He requested that the processing of his citizenship application be suspended until the IAD rendered a decision concerning the removal order. In the alternative, if the request to suspend was not granted, he requested that he be allowed additional time to respond to the procedural fairness letter from the Supervisor and that he be provided with copies of the Officer's report and the ICES report.

[15] On September 14, 2017, the Officer advised Mr. D'Almeida that processing of his citizenship application was being suspended until a decision was made concerning the allegations of misrepresentation but that, under section 13.1 of the Act and in light of the ongoing investigation, it was not possible to suspend the citizenship application until the hearing before the IAD hearing took place.

[16] On September 18, 2017, the Supervisor allowed Mr. D'Almeida additional time to respond to the allegation of misrepresentation. The Supervisor also refused to forward him the Officer's report and the ICES report and suggested that he submit an access to information request, which Mr. D'Almeida had already done on August 31, 2017.

[17] On October 23, 2017, Mr. D'Almeida requested via letter, without completing the designated form, that his citizenship application be withdrawn. He indicated at that time that he had reviewed the ICES report and admitted that it was possible that he had not maintained the required number of days to qualify for citizenship. He added that at the time of filing his citizenship application, he had neither the ICES report nor one of his passports, which prevented him from accurately determining his absences from Canada.

[18] On October 26, 2017, the Supervisor advised Mr. D'Almeida that his withdrawal request was being suspended pending completion of the investigation into the allegation of misrepresentation.

[19] On November 1, 2017, Mr. D'Almeida's counsel responded to the Supervisor. She maintained that the Supervisor was acting *ultra vires* by refusing to approve Mr. D'Almeida's request to withdraw his citizenship application in that nothing in the law prohibited a person from withdrawing an application at any time. She reiterated that her client did not commit any form of misrepresentation.

[20] On November 7, 2017, the Supervisor rendered the impugned decision in the present case as detailed above.

III. Positions of the parties

(1) Applicant's position

[21] Mr. D'Almeida argues that the Supervisor (1) did not have jurisdiction to continue processing his citizenship application after receiving a request in writing that it be withdrawn; (2) breached principles of procedural fairness by failing to disclose to him two documents in his record, the ICES report and the Officer's report; and (3) erred in concluding that he had misrepresented material circumstances within the meaning of paragraph 22(1)(e.1) of the Act.

[22] With regard to the matter of jurisdiction, Mr. D'Almeida's counsel stated at the hearing that the Supervisor acted without jurisdiction in continuing to process the citizenship application after receiving the withdrawal request, and argues four points: (a) the scheme of the Act itself neither prohibits a person from withdrawing a citizenship application nor authorizes the Supervisor to continue processing the application after receiving a withdrawal request; (b) current CIC policy provides the option for a person to withdraw a citizenship application at his or her sole discretion without providing for exceptions; (c) the sole decision of the Court specifically concerning this matter confirms in *obiter* that a person has the option to withdraw a citizenship application at any time (*Zalouk v. Canada (Citizenship and Immigration)*, 2017 FC 233 at para 12 [*Zalouk*]); and (d) there is no ambiguity in the wording of the Act, since nothing prevents an applicant from withdrawing an application at any time, but if the Court concludes that such an ambiguity exists, it must resolve it in the applicant's favour.

[23] With regard to procedural fairness, Mr. D'Almeida argues that the Supervisor failed to act fairly in refusing to provide him the documents on which he was relying and in suggesting instead that he submit an access to information request to obtain them. In the applicant's opinion, this goes contrary to the teachings of *Singh Natt v. Canada (Citizenship and Immigration)*,

2009 FC 238 at paras 25-26, to the effect that "No 'access to information' request is necessary to obtain information which the respondent relied upon in accusing the applicant of misrepresentation."

[24] Finally, with regard to the conclusion as to misrepresentation, Mr. D'Almeida argues that the Supervisor erred in that (a) the applicant had no intention to mislead and completed the physical presence calculator form in good faith and to the best of his knowledge based on the documents in his possession; (b) the absences on the physical presence calculator form are recorded based on the stamps in his passports and their omission cannot be deemed a misrepresentation, since he voluntarily submitted these travel documents (*Canada (Citizenship and Immigration) v. Thiara*, 2014 FC 220 at para 50 [*Thiara*]); (c) *mens rea* is an essential element in concluding that a person "directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of the Act" within the meaning of paragraph 22(1)(e.1) of the Act, and it has not been established that Mr. D'Almeida knowingly omitted certain absences.

[25] Mr. D'Almeida adds in his response that (1) section 13.1 of the Act, cited by the respondent, is irrelevant, since after an application is withdrawn, there is no longer any question as to fulfilling the conditions set out in the Act; (2) the Act does not provide a procedure for withdrawing an application; (3) the decisions submitted by the respondent relate only to the *Immigration and Refugee Protection Act*, SC 2001, c. 27 [Immigration Act] and not to the Act at issue in the present case, since the Court has never expressed an opinion on the matter of withdrawing a citizenship application; (4) the rule of lenity favours the applicant, since the

decision maker must resolve an ambiguous law in favour of the party whose interests are at stake; and (5) this is a serious question of law of general importance, since little case law exists concerning the matter of withdrawing a citizenship application.

(2) Respondent's position

[26] The respondent argues initially that the decisions concerning the withdrawal request and misrepresentation should be reviewed on a standard of reasonableness, and that the matter of procedural fairness should be reviewed on a standard of correctness.

[27] Concerning the matter of jurisdiction, the Minister responds that (1) the aim of paragraph 22(1)(e.1) is to dissuade applicants from misrepresenting material circumstances by providing the sanction of inadmissibility, and it would be contrary to public order to allow applicants suspected of making such misrepresentations to simply withdraw their applications to avoid this sanction; (2) the applicant did not submit his withdrawal request until October 23, 2017, whereas he was advised on multiple occasions of concerns as to the misrepresentation of material circumstances, notably during the interview with the Officer on July 5, 2017, and in the procedural fairness letter of August 25, 2017; (3) the provisions of the Act aiming to dissuade misrepresentation are to be interpreted broadly in the same manner as paragraph 40(1)(a) of the Immigration Act (*Goburdhun v. Canada (Citizenship and Immigration)*, 2013 FC 971 at para 28 [*Goburdhun*]; *Geng v. Canada (Public Safety and Emergency Preparedness)*, 2017 FC 1155 at para 33 [*Geng*]; *Kazzi v. Canada (Citizenship and Immigration)*, 2017 FC 153 at para 38 [*Kazzi*]).

[28] With regard to the matter of procedural fairness, the respondent argues that the decision does not contain any errors since (1) the procedural fairness letter sent by the Supervisor was very detailed and indicated that the ICES report showed 16 undeclared absences; the applicant's bank statement indicated a duty-free transaction on March 20, 2012, yet no absence had been declared on that date; and the stamps in the passports provided by the applicant indicated undeclared absences in Mr. D'Almeida's citizenship application; and (2) the Supervisor was not required to provide the reports he cited in his letter (*Nadarasa v. Canada (Citizenship and Immigration)*, 2009 FC 1112 at para 25 [*Nadarasa*]), particularly since the applicant had reviewed the ICES report during the interview on July 5, 2017, the ICES report was not part of the extrinsic evidence (*Cheburashkina v. Canada (Citizenship and Immigration*), 2014 FC 847 at para 31 [*Cheburashkina*]) and, moreover, the applicant received these reports in response to his access to information request.

[29] With regard to the conclusion as to misrepresentation of material circumstances, the Minister argues that this conclusion is reasonable since (1) the decision maker considered the possibility that the applicant may have been mistaken due to the theft of one of his passports and his frequent travel but indicated that the applicant did not supply any additional explanations to account for the significant variation between the absences documented on the form and his actual absences; (2) the decision maker did not believe that the applicant had completed the form to the best of his knowledge, as he recorded only a fraction of his absences; (3) the decision maker indicated that whether the misrepresentation of material circumstances was committed knowingly or not was unimportant, as it was the applicant's responsibility to provide accurate and complete information; (4) *mens rea* is not an essential element in concluding as to

misrepresentation of material circumstances, and *Medel v. Canada (Minister of Employment and Immigration)*, [1990] 2 FC 345 (CA) [*Medel*] is to be applied exceptionally in accordance with *Oloumi v. Canada (Citizenship and Immigration)*, 2012 FC 428 at para 36 [*Oloumi*]; (5) the case law relating to section 10 of the Act (*Thiara*) does not apply to paragraph 22(1)(e.1) of the Act as there is no dispute that concerning the revocation of citizenship under section 10, it must be shown that the person in question intended to mislead, whereas this is not the case in paragraph 22(1)(e.1) of the Act; (6) the Supervisor does not need to show that there was deliberate intent to misrepresent material circumstances (*Zalouk* at para 11).

IV. Discussion

A. *Issues*

[30] Based on Mr. D'Almeida's arguments, the Court must examine whether the Supervisor (1) had jurisdiction to continue processing Mr. D'Almeida's citizenship application after receiving a request in writing that it be withdrawn; (2) breached principles of procedural fairness by failing to provide him with two documents in his record, the ICES report and the Officer's report; and (3) erred in concluding that he had misrepresented material circumstances within the meaning of paragraph 22(1)(e.1) of the Act.

B. *Relevant provisions of the Act*

[31] In June 2014, subsection 5(1) of the Act provided that the Minister granted citizenship if a person, among other conditions, had resided in Canada for a total of at least three of the four years preceding the application date.

[32] Paragraph 22(1)(e.1) of the Act provides further that a person shall not be granted citizenship under subsection 5(1) of the Act if "the person directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of this Act." Meanwhile, paragraph 22(1)(e.2) of the Act provides that a person shall not be granted citizenship if, during the five years before the person's application, the person was prohibited from being granted citizenship under paragraph (e.1) above.

[33] The wording of these provisions of the Act resembles that of subsections 40(1) and (2) of the Immigration Act grouped in Division 4, "Inadmissibility," under the heading "Misrepresentation." Subsection 40(1) of the Immigration Act provides that a person is inadmissible for misrepresentation for "directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act." Meanwhile, subsection 40(2) provides that the person continues to be inadmissible for a period of five years following final determination.

[34] Section 13.1 of the Act provides that the Minister may suspend the processing of a citizenship application while awaiting the results of an investigation. However, the Act makes no provision concerning a person's request to withdraw a citizenship application. The Act is also silent concerning the possibility for the Minister or authorized person to grant, deny or suspend a withdrawal request.

C. *Withdrawal of citizenship application*

[35] The Court concurs with the Minister's position as to the standard of review and will examine the Supervisor's decision concerning Mr. D'Almeida's withdrawal request for reasonableness. In this regard, the Court must consequently determine whether the decision falls within a range of possible outcomes in respect of the facts and law (*Dunsmuir v. New Brunswick*, 2008 SCC 9, at para 47).

[36] There is no dispute that the Act is silent in that it does not specifically prohibit a person from withdrawing a citizenship application after an investigation for misrepresentation has been initiated. It also makes no provision as to the Supervisor's authority to continue processing the citizenship application after receiving a withdrawal request. However, to conclude on this basis, as the applicant would like, that the Act's silence grants him the right to withdraw his citizenship application at any time and that this silence obliges the Supervisor to allow him to do so, is a step that the Court will not take.

[37] When Mr. D'Almeida submitted his request to withdraw his application, the published procedure of CIC implied that applicants may withdraw applications at any time at their sole discretion. Meanwhile, the form published by CIC for submitting a withdrawal request provided specifically that a withdrawal request could be denied or postponed if the applicant was under investigation or if a procedural fairness letter for misrepresentation had been forwarded to the applicant. However, the use of this form was not mandatory, and Mr. D'Almeida submitted his withdrawal request via letter instead.

[38] Nevertheless, the Court cannot accept Mr. D'Almeida's position and conclude that the Supervisor was obliged to allow him to withdraw his citizenship application even though an investigation for misrepresentation was ongoing concerning his case.

[39] First, the procedure published by CIC, like immigration guidelines, does not have the force of law (*Kanthasamy v. Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 32; *Thibeault v. Canada (Transport, Infrastructure and Communities)*, 2016 FCA 102 at para 36; *Kane v. Canada (Attorney General)*, 2011 FCA 19 at para 56). Moreover, the procedure in question indicates that it "is posted on the Department's website as a courtesy to stakeholders" (certified tribunal record, p. 38). The Supervisor was consequently not bound by this procedure.

[40] Additionally, adopting the applicant's position would lead to an absurd outcome the effects of which would include rendering inoperative paragraph 22(1)(e.1) of the Act.

[41] The sole decision submitted by the parties concerning this point is *Zalouk*, in which Justice Martineau noted, "While the Citizenship Supervisor did not have any obligation to return the applications for citizenship, nothing prevented the applicants from withdrawing their applications and from submitting fresh new applications at a later date." The parties agree that this submission constitutes an *obiter* from which the Court cannot draw definitive conclusions, since there is nothing to indicate that the issues raised in the present case had been raised or argued before Justice Martineau.

[42] Furthermore, in the absence of specific case law concerning the matter at hand, and since paragraph 22(1)(e.1) of the Act and subsection 40(1) of the Immigration Act are similar, the approach developed by the Court with regard to interpreting these provisions is to be followed.

[43] As it did with respect to subsection 40(1) of the Immigration Act, the Court agrees that paragraph 20(1)(e.1) should be interpreted in the broad sense to uphold the underlying objectives of the Act to dissuade misrepresentation, ensure that applications submitted are complete and accurate and maintain the integrity of the system (*Goburdhun* at para 28).

[44] As such, as noted by Justice McDonald in interpreting subsection 40(1) of the Immigration Act, " To accept the interpretation urged by the Applicant would lead to absurdity in allowing an applicant to avoid a finding of misrepresentation by withdrawing and resubmitting an application, even though the withdrawn application contained a misrepresentation" (*Geng*, at para 37).

[45] As noted by Justice Gascon, "As stated many times in the jurisprudence, an applicant may not take advantage of the fact that the misrepresentation is caught by the immigration authorities before the final assessment of the application (*Goburdhun* at para 28; *Sayedi v. Canada (Citizenship and Immigration)*, 2012 FC 420 at para 27 [*Sayedi*]; *Khan v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 512 at paras 25 and 27). In other words, paragraph 40(1)(a) of the IRPA cannot be interpreted so as to reward those who managed not to get caught until the assessment of their application and to give an absolution for a false statement because it ultimately did not work" (*Kazzi* at para 39).

[46] Finally, the Court has not been convinced that recourse to the interpretation doctrine for ambiguities is appropriate or necessary in the present case.

[47] In this case, the Court is convinced that the Supervisor's decision not to process the withdrawal request falls within the range of possible outcomes in respect of the facts and the law and is consequently reasonable.

D. *Procedural fairness*

[48] Opinion is divided on the standard of review applicable to issues of procedural fairness and natural justice (*Vavilov v. Canada (Citizenship and Immigration*), 2017 FCA 132, at para 12). The Federal Court of Appeal recently addressed this issue again in *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69. At that time, it seemed to decide against reviewing procedural fairness solely through the prism of a standard of review and, instead, found that this review ultimately consisted of determining whether the applicant was aware of the allegations against it and had the opportunity to be heard fully and fairly.

[49] The evidence available to the Supervisor and contradicting the applicant's declarations was disclosed to Mr. D'Almeida by the Officer during the interview of July 5, 2017, and by the Supervisor, in his procedural fairness letter, on August 25, 2017. This letter indicates specifically that (1) the ICES report showed that the applicant had entered Canada 16 times via the airports in Montréal and Toronto on dates when he did not declare any absences; (2) Mr. D'Almeida's bank statement indicated a duty-free transaction in Montréal on a date when no absence had been declared; and (3) his passport stamps indicated an entry into the United States, an entry into Haiti

and a departure from Haiti on dates for which no absences had been declared. The Supervisor indicated clearly that an allegation of misrepresentation was possible and would have consequences. He provided Mr. D'Almeida an opportunity to respond, which the applicant proceeded to do.

[50] Moreover, the Court has confirmed previously that "the jurisprudence of this Court is not to the effect that an applicant must actually be given the document relied upon by the decision-maker, but that the information contained in that document be disclosed to the applicant so that he or she has an opportunity to know and respond to the case against him or her" (*Nadarasa* at para 25) and that the ICES report is not extrinsic evidence (*Cheburashkina* at para 31).

[51] In this case, the Court is convinced that Mr. D'Almeida was advised of the allegations arising against him and of the evidence contradicting his own declarations and that he was provided an opportunity to respond. The Court finds that there was no breach of the duty of procedural fairness.

E. *Reasonableness*

[52] The onus was on Mr. D'Almeida to provide truthful, complete, accurate and genuine information. On his citizenship application, however, he notably failed to declare 16 of his absences over a four-year period, which is not insignificant.

[53] Contrary to Mr. D'Almeida's claims, his good faith, even where it might be demonstrated, does not preclude a finding of misrepresentation under paragraph 22(1)(e.1) of the

Act. Indeed, it is not necessary for misrepresentation to have been intentional (*Hoseinian v. Canada (Citizenship and Immigration)*, 2018 FC 514 at para 8; *Zalouk* at para 11; *Sayedi* at paras 40-43). Moreover, the facts in the present case do not correspond to an exceptional situation allowing application of the exception provided by the Federal Court of Appeal in *Medel* (*Oloumi*, paras 35-39).

[54] Finally, the Court also rejects Mr. D'Almeida's argument that the stamps in his passport clarify his citizenship application and that CIC should have sought to supplement his declarations using the stamps (*Goburdhun* at para 43).

[55] For the above reasons, the Court finds that the Supervisor's decision falls within the range of possible outcomes in respect of the facts and the law and is, additionally, reasonable.

F. *Question for certification*

[56] Mr. D'Almeida is asking the Court to certify one question, describing it as a question transcending his own interests and having impact in terms of determining the rights of all persons who have applied, are applying and will apply for Canadian citizenship, particularly persons under investigation for misrepresentation who want to withdraw their application from processing.

[57] He proposes the following question: "Is a person authorized under the *Citizenship Act* to withdraw a citizenship application while under investigation for misrepresentation pursuant to paragraph 22(1)(e.1) of the *Citizenship Act*?"

[58] The respondent opposes the certification of this question. He argues that the question proposed by the applicant neither transcends the interests of the parties nor is of general importance, the essential criteria for certifying a question (*Zhang v. Canada (Citizenship and Immigration)*, 2015 FC 463 at para 9). Indeed, the proposed question is based largely on the specific facts of the present case; an officer receiving a withdrawal request must consider the unique circumstances of each situation.

[59] The Court agrees with the respondent’s position and will not certify the question.

JUDGMENT in T-1880-17

THE COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed;

2. There is no question to be certified;

3. Without costs.

"Martine St-Louis"
Judge

***Citizenship Act* (RSC 1985, c C-29)**	***(Version Juin 2014)Loi sur la citoyenneté* (LRC 1985, c C-29)**
Grant of citizenship	**Attribution de la citoyenneté**
5 (1) The Minister shall grant citizenship to any person who	**5 (1)** Le ministre attribue la citoyenneté à toute personne qui, à la fois :
(…)	(…)
(c) is a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act, and has, within the four years immediately preceding the date of his or her application, accumulated at least three years of residence in Canada calculated in the following manner:	**c)** est un résident permanent au sens du paragraphe 2(1) de la Loi sur l'immigration et la protection des réfugiés et a, dans les quatre ans qui ont précédé la date de sa demande, résidé au Canada pendant au moins trois ans en tout, la durée de sa résidence étant calculée de la manière suivante :
Revocation by Minister — fraud, false representation, etc.	**Révocation par le ministre — fraude, fausse déclaration, etc.**
10 (1) Subject to subsection 10.1(1), the Minister may revoke a person's citizenship or renunciation of citizenship if the Minister is satisfied on a balance of probabilities that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances.	**10 (1)** Sous réserve du paragraphe 10.1(1), le ministre peut révoquer la citoyenneté d'une personne ou sa répudiation lorsqu'il est convaincu, selon la prépondérance des probabilités, que l'acquisition, la conservation ou la répudiation de la citoyenneté de la personne ou sa réintégration dans celle-ci est intervenue par fraude ou au moyen d'une fausse déclaration ou de la dissimulation intentionnelle de faits essentiels.
Suspension of processing	**Suspension de la procédure**

d'examen

13.1 The Minister may suspend the processing of an application for as long as is necessary to receive

(a) any information or evidence or the results of any investigation or inquiry for the purpose of ascertaining whether the applicant meets the requirements under this Act relating to the application, whether the applicant should be the subject of an admissibility hearing or a removal order under the Immigration and Refugee Protection Act or whether section 20 or 22 applies with respect to the applicant; and

(b) in the case of an applicant who is a permanent resident and who is the subject of an admissibility hearing under the Immigration and Refugee Protection Act, the determination as to whether a removal order is to be made against the applicant.

13.1 Le ministre peut suspendre, pendant la période nécessaire, la procédure d'examen d'une demande :

a) dans l'attente de renseignements ou d'éléments de preuve ou des résultats d'une enquête, afin d'établir si le demandeur remplit, à l'égard de la demande, les conditions prévues sous le régime de la présente loi, si celui-ci devrait faire l'objet d'une enquête dans le cadre de la Loi sur l'immigration et la protection des réfugiés ou d'une mesure de renvoi au titre de cette loi, ou si les articles 20 ou 22 s'appliquent à l'égard de celui-ci;

b) dans le cas d'un demandeur qui est un résident permanent qui a fait l'objet d'une enquête dans le cadre de la Loi sur l'immigration et la protection des réfugiés, dans l'attente de la décision sur la question de savoir si une mesure de renvoi devrait être prise contre celui-ci.

Prohibition

22 (1) Despite anything in this Act, a person shall not be granted citizenship under subsection 5(1), (2) or (4) or 11(1) or take the oath of citizenship

(…)

(e.1) if the person directly or

Interdiction

22 (1) Malgré les autres dispositions de la présente loi, nul ne peut recevoir la citoyenneté au titre des paragraphes 5(1), (2) ou (4) ou 11(1) ni prêter le serment de citoyenneté :

(…)

indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of this Act;

(e.2) if, during the five years immediately before the person's application, the person was prohibited from being granted citizenship or taking the oath of citizenship under paragraph (e.1); or

(…)

e.1) si, directement ou indirectement, il fait une présentation erronée sur un fait essentiel quant à un objet pertinent ou omet de révéler un tel fait, entraînant ou risquant d'entraîner ainsi une erreur dans l'application de la présente loi;

e.2) si, au cours des cinq années qui précèdent sa demande, il n'a pu recevoir la citoyenneté ou prêter le serment de citoyenneté en vertu de l'alinéa e.1);

(…)

***Immigration and Refugee Protection Act* (SC 2001, c 27)**

Misrepresentation

40 (1) A permanent resident or a foreign national is inadmissible for misrepresentation

(a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

***Loi sur l'immigration et la protection des réfugiés* (LC 2001, ch 27)**

Fausses déclarations

40 (1) Emportent interdiction de territoire pour fausses déclarations les faits suivants :

a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi;

Application

(2) The following provisions govern subsection (1):

(a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period

Application

(2) Les dispositions suivantes s'appliquent au paragraphe (1) :

a) l'interdiction de territoire court pour les cinq ans suivant la décision la constatant en

of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced; and

(…)

dernier ressort, si le résident permanent ou l'étranger n'est pas au pays, ou suivant l'exécution de la mesure de renvoi;

(…)

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1880-17
STYLE OF CAUSE:	LOHIC ALAIN D'ALMEIDA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	JULY 25, 2018
JUDGMENT AND REASONS:	ST-LOUIS J.
DATED:	AUGUST 29, 2018

APPEARANCES:

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Suzanne Trudel	FOR THE RESPONDENT

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